

F 124

.P36





R.H. Beckham

Two Lines (state) Bar
n. 3

IN MEMORY

OF

RUFUS W. PECKHAM,

A

JUDGE OF THE COURT OF APPEALS,

Who Perished

ON THE

WRECK OF THE STEAMER VILLE DU HAVRE,

ON

THE VOYAGE FROM NEW YORK TO HAVRE,

NOVEMBER 22D, 1873.



1

PREPARED BY
A COMMITTEE OF THE BAR OF THE STATE OF NEW YORK.
1874.

MUNSELL, PRINTER, ALBANY.

M E M O I R .

The beautiful thought was expressed, by a distinguished writer, that the great steam ships which are constantly crossing and recrossing the Atlantic, are like the weaver's shuttle forming the web which unites in closer relations the people of continental Europe and the British islands, with those of America. And thus it is, that when the thread is violently broken, a shock is felt on both sides of the ocean. When the Ville du Havre went down burying with her, in the midst of the sea, her precious human freight, the shock was intensified because of the belief of many that the loss was not unavoidable. Among her passengers lost, was one who in his high judicial position and by his manly character had endeared himself to many friends, and whose heroic death produced a profound sensation throughout the country. It is, therefore, fitting that the record of the honors paid to his memory should be preceded by a brief sketch of his life.

Judge Rufus W. Peckham was born in Rensselaerville, in the county of Albany, December 20th, 1809. Soon after, his father removed with his family to Otsego county, establishing himself on the eastern bank of the Susquehanna, a mile or two below Cooperstown. And there, amid beautiful scenery and in a region rendered classic by the pen of Cooper, the youth of young Peckham was spent. He was early sent to Hartwick Seminary in the same county, an institution distinguished among the academies of the state for its thorough instruction, and at whose head was Rev. Dr. Hazelius, one of the most learned men of his day.

He entered Union College in 1825, at the age of sixteen. Dr. Nott had then been twenty-one years at the head of the institution; had acquired a national reputation as one of the most eminent instructors; and students had gathered there from almost every state in the Union. He joined the class which graduated in 1827, and which was remarkable for the large proportion of its members who afterward attained distinction in the various walks of professional and public life. His careful training at Hartwick had made him a good classical scholar for his years, and he at once took rank in that department, and which he held during his college life. In other college studies he cannot be said to have been a severe student, though

his natural quickness and talents enabled him to maintain a good position in a class distinguished for scholarship. His attention at that time to college studies may have been drawn away in some degree by the attractions which a military organization had for him. The celebrated battalion of Union College Cadets, adopting the West Point uniform, had just been formed when he entered as a student. He was at once chosen a lieutenant of one of the companies, and devoting himself to military tactics was in the next year selected captain. The fourth of July holiday of the year was spent in an excursion to Otsego county, and it may well be questioned whether any of his future successes in life afforded him as much gratification as did the plaudits of his friends and the companions of his youth, as he led his company of well trained and handsomely equipped College Cadets through the streets of Cooperstown. That discipline and training may well account for the military bearing which he always exhibited ; and the elements of a good soldier which he possessed in an eminent degree, moral and physical courage, never forsook him down to the last moments of his life. He graduated at the age of eighteen. An elder brother had long been settled and occupied a prominent position as a physician in the city of Utica. To that city young Peckham went on leaving college, and entered as a law student in the office of Bronson and

Beardsley. Greene C. Bronson and Samuel Beardsley, both then eminent at the bar—each literally an embodiment of the law—each afterwards chief justice of the Supreme Court of New York, and both leaving strong marks upon the jurisprudence and history of the state. Certainly if the knowledge of the law could be obtained by absorption the young student might well hope to gain it in that manner in the office which he had entered. But he knew too well that the *viginti anni lucubrations*, the twenty years of diligent study, would be required before he would hope to attain to a thorough knowledge of his profession, and he applied himself diligently to his studies. His pleasant manners and the talent which he exhibited made him a most agreeable companion, and he won the strong friendship of both his instructors, a friendship which was cordial and unbroken during the whole of their after lives. With Chief Justice Beardsley it was something more—it was the affection of an elder for a promising younger brother. No man has ever sat on the bench of this state in whose breast beat a heart more loyal to truth, to honesty, to justice and independence than did that of Samuel Beardsley. Not brilliant nor witty—apparently stern yet with a kind heart, he was able, learned, impartial, just: a hater of frauds and chicanery, no matter in what garb they might clothe themselves. It may be said

here in advance that the scholar in his own after life developed characteristics very like his master. On his admission to the bar in 1830, he at once joined another elder brother, George, who had some time previous opened a law office in the city of Albany. The firm soon acquired a large business and as soon as the junior member was admitted as a counselor, the practice in the courts, the trial of cases and arguments at the bar, devolved mainly on him. His good address, the vigor with which he seized the important parts of his case, and the terseness with which he presented them to the jury and the court soon placed him among those in the front rank of the profession at the capital. He was engaged as counsel in a large portion of the cases tried at the circuit, and having for his competitors such men as Samuel Stevens, Marcus T. Reynolds and Henry G. Wheaton, it is evident that it was no easy task to acquire prominence among them. In 1838, when twenty-nine years of age, he was appointed by Gov. Marcy, District Attorney for the city and county of Albany. The duties of this important office he discharged both with fidelity and impartiality as well as with ability. As in after life, when administering justice on the bench, he was no respecter of persons. It could never be said with truth of him when performing official duties, however it might be of some others of our day :

“Plate sin with gold and the strong lance of justice
hurtless breaks,
Arm it with rags, a pigmy straw shall pierce it.”

He continued in the office of District Attorney till 1841 when there was a change of politieal parties in power, and the office was bestowed by Gov. Seward on Henry G. Wheaton. In 1845 he was a candidate before the legislature, which then had the appointment, for Attorney General of the state. He had a formidable opponent in the person of John Van Buren, and after a sharp contest was beaten by a single vote. In the fall of 1852 he was returned by the city and county of Albany a Representative to the 33d Congress of the United States. He took his seat during the first year of General Pierce’s administration. Though a life long demoerat and as such elected to congress, he refused to be bound by party ties where questions which he deemed vital to the best interests of the country were at stake. He spoke and voted against the famous Nebraska bill, and he foretold with wonderful accuracy the effect which that measure would be likely to produce.

At the time of his election to congress, his brother George W. and his brother-in-law Joseph S. Colt, who with him constituted the firm of Peckhams and Colt, moved west, settling at Milwaukee. It was this brother George whose sudden and melancholy death

occurred on receipt of the news of the loss of his younger and favorite brother. On the expiration of his congressional term he resumed the active practice of his profession at Albany, having previously associated with him as partner one who has gained renown as a great lawyer, and who at this writing is in congress, the honored representative of the state at large—Lyman Tremain. In the spring of 1859, still suffering from the effects of an injured limb and with general health somewhat impaired, he made a visit to Europe. Both the pleasure and the profit of the journey were greatly increased by the companionship of his old professional instructor and friend, Chief Justice Samuel Beardsley—the sturdy old Roman who had then closed his judicial labors, and who in the following year was to reach the end of the journey of life. On his return from Europe, in the fall of 1859, he was immediately nominated and soon after elected, by a decided majority over his very able and popular opponent, a Justice of the Supreme Court. He brought to the bench excellent qualities. Well read in the law and very familiar with the practice of his profession, and with remarkably quick appreciation of the salient points of a case, he dispatched the business of the circuits with rapidity and ability. But more, and most of all, he brought there an ingrained honesty of purpose—a determination to mete out, without fear

or favor, equal and exact justice to all men. Of his learning, his ability, his eminent success and usefulness as a judge, the counsel who practised before him, and his judicial brethren who long presided with him on the bench, have spoken in no halting terms, as will be seen in the following pages. At the close of his first judicial term of eight years, Judge Peckham was re-elected without opposition, no candidate being named against him. Before the close of his second term he was elected a Member of the present Court of Appeals. Thus after his first elevation to the bench his life flowed on in a smooth unbroken current to its sudden and melancholy close.

Judge Peckham leaves two sons, Wheeler H. Peckham of New York city and Rufus W. Peckham jr. of Albany, both well known and distinguished in their profession. They are children of his first wife, who died when they were young, many years ago. She was a daughter of the Rev. Dr. Lacey, formerly rector of St. Peter's church, Albany. His second wife, who was beloved by all who had the pleasure of an intimate acquaintance with her, and whose love and admiration of her husband was unbounded, went down with him on that fatal night. We may call up to view that group on the deck of the sinking vessel—the tall, manly form of the judge holding by the hands his beloved wife, and then,

“When shrieked the timid and stood still the brave,
And some leaped over board as eager to anticipate
their grave,”

endeavoring to cheer those who stood around, he uttered those words which have thrilled so many hearts as they have rung throughout the land: “If we must go down, let us die bravely!”¹

¹ The steamer Ville du Havre, in which Judge Peckham and wife took passage for Europe, was one of the vessels belonging to the Compagnie Générale Transatlantique, being, as indicated by its name, a French company, running its vessels from New York to Havre and touching at Brest. She was a first-class, iron, screw steamer, over five thousand tons burden, and, with the exception of the Great Eastern, the largest vessel that ever entered the port of New York. The steamer sailed from New York for Havre, November 15, 1873, with eighty-nine first cabin, eighteen second cabin and twenty-seven third cabin, passengers, six stowaways, six officers and one hundred and sixty-seven crew, making a total of three hundred and thirteen souls. Soon after sailing and when but a short distance out, the steamer entered a heavy fog shutting all sails from sight and of course requiring the greatest vigilance at the hands of the officers and crew. For five days and nights this fog continued and the steamer pushed on, groping her way towards the port which she was destined never to reach. Thursday, November 20, a breeze sprung up, the fog disappeared and a heavy sea was rolling. Friday, the 21st, was also clear, the sea was high and the night came on *clear and starlight*. The captain (Surmont) remained on deck Friday night until 11.30, when he went to his state room, leaving all things well, and giving directions to be called “at the slightest occurrence.” At 2 A.M. of Saturday, November 22, Captain Surmont, although he had not yet been called, left his cabin to go on deck, and just as he arrived there he saw a ship under full sail right upon the steamer. He had hardly time to jump upon the bridge when his steamer was struck “right in the side and opposite to the main

In the foregoing brief outline of the life of Judge Peckham reference has been chiefly made to his qualifications and eminent fitness for professional station. To his family and intimate friends he was united by the strongest ties of affection. His was a noble and generous heart. His true individuality, aside from his

mast." The damage done was enormous and irreparable. A hole sixteen by about thirty feet, had been made in the side of the steamer, through which the water was rushing in such volumes as to show that the vessel could float but a short time. The vessel which struck the steamer, proved to be the British iron ship *Loch Earn*, Captain Robertson, bound for New York from London. The shock of the collision was terrific. Soon all the passengers, who had not been injured by the crushing in of the vessel's side, were on deck. Efforts were at once made to get out the boats and thus to attempt to get to the *Loch Earn*, which had dropped off a short distance and also sent her boats to the steamer. All the steamer's passengers were surpassingly calm, during this brief interval. One boat of the steamer had been launched with some persons in her, and efforts were being made to launch another, when the main mast fell and carried with it the mizzen mast; the former falling upon the boat already launched and killing most of its occupants, and the latter falling among those endeavoring to launch the other, and killing or wounding nearly all of them. During these awful scenes, a small group of passengers stood near the little shed or covering over the main companion way from the deck to the first cabin, at the very spot where but a week before they had bid good bye to their friends at home. In the group were Judge and Mrs. Peckham, Mr. Hamilton Murray and his sister and Mrs. Platt, of Oswego, Mrs. Bulkley and her daughter, of Rye, and Miss Wagstaff, of Babylon, who was going to Paris in company with Mrs. and Miss Bulkley. They all stood together on the deck of the steamer, when she went down, within twelve minutes of the time she was struck. They were all perfectly calm and resigned. Just before the ship disappeared and while Judge Peckham was standing by his wife, he said to her, "Wife, if we are to go down,

intellectual life, was exhibited in the warmth and intensity of his affections and his genius for making himself beloved by all. Receiving from his children the most devoted love, affection and reverence, he gave in return not only the affections of a parent, but the confidence of a friend and bosom companion.

let us go down bravely." These were probably his last words on earth. The only one of the group that was saved was Mrs. Bulkley, who was picked up, exhausted, some time after the sinking of the Ville du Havre, by one of the boats from the Loeh Earn. All that were saved from the steamer were taken on board this ship, and out of a total of three hundred and thirteen persons on the Ville du Havre, there gathered on the deck of the Loeh Earn on that wintry morning in November, but eighty-seven people. Captain Surmont went down with his ship and was subsequently picked up and saved. The Loeh Earn was found to have been badly damaged, and during the day, the ship Trimountain bound for Bristol, England, came in sight, and the survivors were transferred to her deck and safely landed in England in the course of a week. The captain of the Loeh Earn with his crew remained on his vessel some days longer, but was finally compelled to abandon her at sea in a sinking condition, and he and his crew were brought safely to England in another vessel. It clearly appeared in the subsequent investigations as to the cause of the accident, ordered by the French and English authorities respectively, that each vessel saw the other plainly from ten to fifteen minutes prior to the collision! Is it not most extraordinary that thus in mid ocean, on a clear starlight night two vessels in plain sight of each other should nevertheless come crashing together? The accident must have been the result of carelessness, but as the authorities of each nation after a full investigation relieve the ship of their own nation from blame and charge it to that of the other, the question as to where the responsibility for the accident properly rests is one that will probably forever remain open. The sad consequences of that negligence are the loss of more than two hundred lives, and grief and mourning in the hearts of many families on both sides the Atlantic.

His friendships were not only strong and enduring, but they were the genuine outgrowth of a generous nature. It was no cause of wonder, then, that when the addresses were made which will be found in the following pages—when the friends of his youth and manhood gathered to pay a last tribute of respect to his memory—that there was many a quivering lip and many a moistened eye.



Action of the Court of Appeals.

On Thursday, December 3d, 1873, the Court of Appeals gave formal expression to their sense of the loss sustained by the public and by the members of the court by the death of Judge Peckham. The court room and the chair of the deceased judge were draped in mourning.

Directly after the opening of the court, Chief Judge Church presented the following:

The judges of the Court of Appeals, at their first meeting in consultation after the receipt of the melancholy intelligence of the death of their late associate, Hon. Rufus W. Peckham, by the terrible disaster at sea on the 22d ult., in view of the public loss sustained by his death, and of their private grief at the sudden decease of their friend and associate, deem it proper to place upon the records of the court this expression of their estimate of his services and character.

Judge Peckham has, for many years, been identified with the judiciary of the state. His judicial career began as a judge of the Supreme Court, to which he was elected in the district where he had spent the whole of his professional life; and the qualities which distinguished him as a judge in that position led to his nomination and election as an associate judge of this court on its organization. His firmness, his learning and his fearlessness and independence in maintaining his convictions, guided always by a strong sense of justice, which was a distinguishing feature of his character, won the confidence and respect of the bar and bench, and of all with whom he was associated.

Exhausted by continual application to the discharge of the duties of his position, at the suggestion of his medical advisers, and with the cordial concurrence of his associates, but with reluctance on his part, he sought for a time relief from labor, and to recruit his energies by temporary absence. At almost the first step of his journey—from which his friends hoped he would derive so much benefit—he met with a tragic death.

While we regard the public loss sustained as the paramount one, we cannot refrain from expressing in this public manner our personal attachment to the deceased.

The association of the members of the court with each other is necessarily most intimate, and it developed in the character of our deceased brother rare and attractive qualities. His candor in discussion, patience under opposition, his uniform courtesy to his associates, his kindness and tenderness of feeling, evinced a manly and generous nature, and so endeared him to us, both as a man and colleague, that his death is felt by us as a family affliction. We tender to the surviving relatives of the deceased our deep sympathy, and commend them to the consolation (though inadequate) to be found in the record of a useful and honorable life.

The members of the court will wear the usual badge of mourning during the residue of the term, and the clerk is directed to cause the chair of the deceased and the court room to be suitably draped, and to enter this expression upon the minutes of the court, and to transmit a copy thereof to the surviving members of the family of the deceased.

ALBANY, *December 3, 1873.*

SANFORD E. CHURCH,
WILLIAM F. ALLEN,
MARTIN GROVER,

CHARLES J. FOLGER,
CHARLES ANDREWS,
CHARLES A. RAPALLO.

The court then adjourned.

By the Bar of the State of New York.

AT THE ALBANY CIRCUIT COURT.

On Wednesday, December 17th, 1873, at 12 o'clock, m., HON. MATTHEW HALE addressed HON. CHARLES R. INGALLS, Presiding Justice in the Albany County Circuit Court, then in session, as follows:

Your honor is aware that a meeting of the bar is to be held to-day to take action on the loss that has been sustained by this bar and the state, in the death of Judge Peckham, I therefore move that a recess be taken for that purpose.

THE COURT—I deem the motion eminently proper, and I will therefore direct that a recess be taken.

A recess was then taken until 3, p. m. At 11 o'clock a procession of the members of the bar was formed, at the City Hall, which directed its way to the Capitol, where the meeting was to be held.

In the meantime representatives of the bar of other counties, and others, had assembled in the Assembly Chamber, among whom were His Excellency, Governor John A. Dix, Hon. William M. Evarts, Hon. John W. Edmonds, Judges Ingalls, Potter, Miller, Bockes, Danforth, Westbrook, Horatio Ballard, William W. Campbell, Francis Kieran,

Senators D. P. Wood, and Samuel S. Lowery, Comptroller Hopkins, John V. L. Pruyn, D. P. Barnard, John Gaul, E. F. Bullard.

AT THE CAPITOL.

HON. MATTHEW HALE called the meeting to order and said :

Gentlemen of the Bar:

Upon the confirmation of the sad news that Judge Rufus W. Peckham was among those lost in the wreck of the ill-fated Ville du Havre, the bar of this city and county met to take some action with reference to the great loss they had sustained. Upon consultation they were of opinion that the position, character and fame of the late Judge demanded something more than a merely local tribute to his memory. They thought that his long and honorable service at the bar and on the bench of the Supreme Court, his last position as an honored member of the Court of last resort, the fact that he was the first removed by death or otherwise from that bench, as organized under the present constitution, the fact that he was so widely known and universally honored throughout the state, the fact that the appalling circumstances attending his death, and the characteristically heroic courage with which he met his fate, have so deeply impressed the public mind, made a general meeting in which the bar of the state should be invited to participate appropriate and desirable. In pursuance of an invitation prompted by these considerations, this meeting has assembled, I therefore nominate Hon. Amasa J. Parker as Chairman of this meeting.

The nomination was unanimously adopted.

On taking the chair JUDGE PARKER said :

Gentlemen:

We are met to commemorate the services and worth of one to whom we were bound by ties of professional brotherhood, and to pay a last sad tribute to his memory. To many of us, his neighbors and personal friends, to whom he was so well known in frequent social intercourse, his loss is a deprivation to be keenly felt and greatly lamented. To myself, personally, it is even more. He was my co-temporary in age and professional service, and having kept on together, side by side, in the battle of life, each discharging his duty as he understood its obligations, the severance of the relations between us has deeply impressed me. We are taught by his sudden death the constantly recurring lesson of the uncertainty of life and the certainty that we are soon to close our earthly labors.

Fortunate will it be for all of us, if we can die, as our friend has done, with our armor on, in the full possession of our faculties, continuing our labors and usefulness to the last, and cheered with the consciousness of a faithful discharge of duty.

What is the further pleasure of the meeting ?

Ex-JUDGE CLUTE then rose and said :

Mr. Chairman: I nominate as Vice Presidents of this meeting, Judges Miller, Ingalls, Danforth and Potter.

The nomination was unanimously approved.

HON. T. J. VAN ALSTYNE then said :

Mr. Chairman: I nominate Messrs. J. Fensham, Marcus T. Hun, and Ch. S. Fairchild as Secretaries of this meeting. Adopted.

HON. JOHN H. REYNOLDS then rose and said:

Mr. Chairman: I move the appointment of a committee of five to be appointed by the Chair, to draw up resolutions embodying the sense of this meeting. Carried.

His Excellency Governor John A. Dix was then invited to take a seat beside the Chairman, and having done so, the Chairman then named as the Committee Hon. John H. Reynolds, Hon. W. W. Campbell, Hon. Francis Kernan, Samuel Hand and Mr. John Gaul.

The Committee then retired to consider and draft the resolutions.

HON. MATTHEW HALE then rose and said:

Mr. Chairman: While the Committee are out perhaps it will be proper for me to state that, as Chairman of the Committee of Arrangements, I have received the following letters from members of the bar in different parts of the state, that are very interesting, but time will not permit of their being read. I have also received a copy of the proceedings of the bar of Niagara county, by which two gentlemen were appointed to represent that bar upon this occasion. I have also had handed to me a copy of the proceedings of the bar of Monroe county, and I move that these letters and proceedings be ordered published as a portion of the proceedings of this meeting.

The motion was unanimously adopted.*

The Committee on Resolutions here returned and Hon. JOHN H. REYNOLDS said:

Mr. Chairman: I am instructed by the Committee appointed by you to report the following preamble and resolutions:

* These letters will be found on page 47.

WHEREAS, The members of the bar of the state of New York have received the mournful intelligence that in the early morning of the 22d day of November, 1873, Rufus W. Peckham, one of the Judges of the Court of Appeals, was lost in mid ocean by the wreck of a vessel that was bearing him to a distant country in the hope of restoring health impaired by arduous labors in his high office;

This appalling disaster is especially deplored by his brethren of the profession of the law, of which he was a most conspicuous ornament, and by his associates upon the bench, with whom the later years of his life were spent in dispensing justice, with dignity and learning.

It is fitting that the death of a man who, by diligence in his profession, had achieved a place of marked eminence, and having been elevated to the highest judicial position known to our laws, leaves a record unstained in its purity and distinguished in all that gives value to the patient labors of an upright judge, should be, in a public form, commemorated. It is to perform this sacred duty that we are now assembled; and it is therefore

Resolved, That we bow with reverence and resignation to the irrevocable decree that has, under such painful circumstances, deprived us of a personal and professional friend. While we may not murmur against the inscrutable ways of God, we may still, in common with a stricken community, mourn the loss of our honored brother, a learned and impartial judge and a most eminent and exemplary citizen.

Resolved, That while we point, with a just professional pride, to the public services of our lamented brother, we find a melancholy satisfaction in recurring to his many endearing qualities in a closer and more personal relation. He was generous and manly, imbued with a lofty sense of honor, and a dignity of personal character that provoked no undue familiarity, yet he still was as gentle in manner as he was resolute in purpose — the delight of friends and

a most welcome guest in every social gathering. We find some consolation in the belief that during the short interval between apparent security and certain death, he viewed the frightful situation with characteristic serenity, and in the very moment of extremest peril, when the relentless waters closed over the sinking deck, he was still loyal to all the impulses of a brave and noble nature.

Resolved, That we regard the death of Judge Rufus W. Peckham as a public calamity. However much we may deplore the sudden severance of personal and professional ties, we are not unmindful that in his deservedly high position he was one of the great officers of the state, to whom, with his eminent associates, were confided interests of the most exalted character, affecting all classes of our fellow citizens. With large experience, of approved integrity and learning, fearless in the assertion of right, yet gentle and merciful in enforcing the demands of the law, he was a fitting member of that high tribunal, to which, in some form, all individual rights of liberty and property are referred, and, when dealt with in the appropriate forms pertaining to the administration of justice, tends to exalt the dignity of a state and promote the happiness of its people.

Resolved, That to his distinguished associates upon the bench of the Court of Appeals we tender our most respectful sympathies in the great loss they have sustained; and his more immediate kindred we affectionately commend to the only source of consolation in the hour of great affliction.

Resolved, That the record of these proceedings be presented to the Court of Appeals, now in session in this Capitol, with a respectful request that they be entered upon the minutes of the Court, and that we will wear the usual badge of mourning for thirty days.

HON. W. W. CAMPBELL, of Cherry Valley, then spoke as follows :

Mr. Chairman: I move the adoption of this preamble and resolutions, and in doing so, I wish to add a few remarks as a tribute of respect to the memory of the honored and lamented deceased. In 1825, Judge Peckham and myself went down from the county of Otsego to Schenectady, and entered Union College together. We were in the same class and in the same division, and literally studied out of the same books, and we formed a friendship which during almost half a century has remained green and fresh. Almost immediately upon entering Union College there was organized that famous battalion of Union College Cadets, of which Judge Peckham, then only 17 years of age, was elected one of its officers, and in the following year he was chosen one of its captains. That year an excursion was made on the Fourth of July to his own county of Otsego, and I doubt, Mr. Chairman, whether in all the subsequent successes which attended him in life, there was a day which afforded greater gratification than the day he led that splendid Volunteer Cadet Company through Cooperstown.

I allude to this because all will recollect that military bearing which characterized him through life, which was owing in some measure to that early military discipline. I do not propose to speak at any length of his Professional, Congressional, or Judicial life, but to bear my testimony from my intimate relations with him, to that unswerving integrity and manliness which characterized his life.

During many later years of his life his house in this city was generally my home. The death of himself and that interesting and devoted wife of his has saddened my heart, and in the day, and in the watches of the night, that crowd gathered on the deck of that ill-fated steamer on that fatal night, has risen up before me, and hour by hour I seem as if I could see him comforting his beloved wife, and those

that clustered around him, and hear his voice as he stilled their fears; and when he went down saying those brave words: "If we must go down, let us go down bravely." Mr. Chairman, our lamented friend died, as it may be said of him he lived — without fear and without reproach.

JUDGE THEODORE MILLER, of Hudson, then said:

Mr. Chairman: In the death of Judge Peckham the judiciary of the state, the legal profession of which he was an honored member, an extensive circle of devoted friends, and society at large, have sustained an irreparable loss.

It would better accord with my own feelings on this occasion to maintain the silence which seems most suitable in view of the sad calamity which terminated his useful life, but his eminent talents, his elevated position and his private virtues, demand a public expression of respect, and as one of his associates for a number of years upon the bench, I feel I must add my feeble tribute to the present commemoration of his life and services. Although I knew Judge Peckham at an early day, when he was at the zenith of his professional fame, and once had met him as an opponent in the old Supreme Court, my acquaintance with him was slight until we were associated together in the discharge of official duties. In that connection I learned to appreciate his strong, noble character, and his many virtues. To these and to this portion of his successful career I shall confine my remarks, leaving to others the agreeable task of tracing a more extended outline of his eventful history. During this period Judge Peckham was in full vigor of mind and body, and developed qualifications which were appreciated by the public and finally secured his elevation to the bench of the highest court in this state. His great experience at the bar; his capacity to grasp the most difficult subjects and intricate questions; his legal acumen; his keen discriminating mind; his calm

and impartial spirit in the investigation of truth; his learning and great ability; ripened as they were to full maturity, rendered him one of the most useful, efficient and able judges that ever adorned the bench of this state. He possessed faculties of the highest order, and in quickness of perception, and the rapidity with which he arrived at results, he had few equals, and I never knew his superior. It may perhaps be said that he was not always right, for to err is human, and like all men who arrive at conclusions quickly, he occasionally was mistaken. But no one ever yielded more readily, willingly and cheerfully, upon being convinced that he was wrong, than the lamented Judge. He was as prompt in rectifying the error as he was honest and pure in committing it. His strong, deep sense of justice shrunk intuitively from adhering to opinions of his own which he found to be erroneous, because he was the author of them. He was diligent and unwearying in searching out the truth, and by severe criticism and sound logic, scanned his own decisions, and exposed errors with perhaps more zest and candor than if they had been committed by others. He had no pride of opinion under such circumstances which induced him to adhere to an erroneous judgment, and I have sometimes thought that he was more willing and eager to recede from conclusions hastily formed, because he doubted their accuracy on account of their having been arrived at without that calm deliberation and care which is so essential and important in the administration of justice, and in the elucidation of legal principles. While this characteristic of his mental organization peculiarly distinguished his career, he was also remarkable for great fearlessness and intrepidity in the discharge of his official duties. He never swerved from the due and proper administration of the law to suit exigencies, or to acquire fame or applause. He spurned all attempts to gain popularity. He administered justice with stern dignity; with integrity, impartiality and fearless

independence, and with that disregard of consequences, which is the crowning glory of the truly great and just judge. It may perhaps be said, that he was severely just, according to the spirit of the law, but he always held the scales of justice with equal poise to all, equally and alike. Innocence never suffered at his hands. He would most cheerfully direct a jury to acquit a person unjustly charged with crime, as promptly and heartily as he would mete out strict justice to the hardened criminal. No ingenuity of counsel, no popular excitement or public clamor would cause him to hesitate in a faithful and honest discharge of his official duty.

With a full apprehension of the intricacies of a difficult case our lamented friend possessed the faculty of communicating his ideas to others in such a manner as to bring them within the comprehension of the humblest mind. He would seize upon the strong points and present them with great clearness and vigor. His style was terse and incisive, but so bold and forcible that no one could fail to understand what he desired to express. This characteristic peculiarly distinguished his written opinions at the General Term of the Supreme Court, which were always able and but comparatively few of which have been reported.

He was an invaluable associate there, candid, patient and courteous at all times. Judge Peckham was deeply versed in the springs of human action, and distinguished for his practical good sense, and for the solidity of his judgment. Although once a member of the National Legislature, the great field of his labor was in the profession to which his life was devoted. He was satisfied with the honor which he there won, and apparently beyond this he had no ambition for distinction. It was in a vocation which requires the exercise of the closest discrimination, the severest study and the highest order of intellectual ability, that he shone preëminent, exhibiting the great powers of his mind, and those infallible marks of genius,

for which he was distinguished. He was equally remarkable for the kindness of his heart, his strong attachment to friends, and his genial disposition. He was fond of social enjoyments, and as a companion, was agreeable and pleasant, and the delight of his friends. I shall never cease to remember the many happy hours I have enjoyed at his hospitable home, enlivened by the presence of his loved companion, who sealed her devotion to him by sharing his sad fate. They both now sleep soundly and well in the cold embrace of death, beneath the deep blue waters of the Atlantic.

I parted with Judge Peckham when he was elevated to the Court of Appeals, with regret at the breaking up of an association of nearly nine years, which to me had been most agreeable, and which I am proud to consider as among the pleasantest recollections of my life.

The sudden termination of his life, and his heroic death, far away from the surroundings of home and of friends, amid the dangers of the sea, courageous as he was to the very end, are full of tragic interest and make us feel more keenly the terrible blow that has been inflicted. It strikes home to our hearts, and conveys an impressive lesson of the frailty of life, and teaches us that we are but spared monuments of mercy, who in the twinkling of an eye may be called to render our final account.

HON. HORATIO BALLARD, of Cortland, then rose and said:

Mr. Chairman: It is with a melancholy satisfaction that I have come to tender my humble offering to the memory of the departed Judge Peckham. The manner of his death sent a thrill of horror through all classes of this and the adjacent states. Every voice is hushed except that of lamentation and eulogy. It is eminently appropriate that the extended call for this meeting should have been issued. This solemn and affecting dispensation has deprived a

court, unsurpassed for integrity, learning and ability, of one of its brilliant ornaments. He had given to its decisions the vigor of a masculine and comprehensive mind, expressed in terse and logical reasoning, and fortified by a thorough acquaintance with the entire range of jurisprudence. He has been called from the field of his labors in the autumn of life, while the sheaves lay piled around him, an abundant harvest of judicial renown.

Time, which mocks at marble and brass, will hold his memory fresh for generations to come. It is but a few days ago that I met in this city that tall and graceful form, and a countenance beaming with intelligence in the full possession of his intellectual powers, crowned with judicial fame and yet doomed so soon to sink from the scenes of earth forever. Being dead, he yet speaks; speaks in his judicial opinions, in his domestic virtues, and in his parental nobleness. The loss which the state and the bench, and especially this city, have sustained by his sudden removal is very great. With his name will long be combined all that is noble in professional achievement; beautiful in marital and parental affection and attractive in social life. The impressiveness of this scene is proof that we have met with no ordinary calamity, and we are admonished that our stay on earth is subject to the disposal of Him whose footsteps are in the deep, and who from time to time is taking the choicest minds of earth to enrich the councils of eternity.

MR. SYLVESTER, of Coxsackie, then said:

Allow me to add a sprig of *cypress* and of *laurel* to the garland with which we are encircling the brow of our loved and departed friend; of *cypress* to show how much we all mourn his loss, how we revere his memory and cherish the recollection of his manly form and commanding presence; of *laurel* to testify to present and future generations our appreciation of his character as a man, a lawyer and a

judge, and of the success he achieved in both departments of the profession. My acquaintance with the late Judge Peckham commenced in 1825, as a class-mate in Union College. The same traits of character which were then predominant in him, have since been conspicuous in his life; the same iron will, the same honesty of purpose, the same discrimination of character, the same forcible and laconic modes of expression, the same analytical comprehension and intuitive perceptions. As a lawyer he stood in the very front rank of his profession; as a judge he was able, upright, independent, irreproachable. But more especially do I delight to think and speak of him as a friend, and as such he was sincere, devoted, unchangeable. Nothing was too much for him to do or suffer for those he esteemed. Though he and I were always politically opposed, yet our difference of opinion never affected our friendship or interrupted it for a moment. He appreciated and respected my opinions and I did his. I knew he would have said to me, if occasion had required it, as John Jay said to his old friend and class-mate, Peter Van Schaack, "While I have a loaf, you and your children may freely partake of it. If your circumstances are easy, I rejoice, if not, let me take off the rough edges." During a period of nearly fifty years our friendship was unbroken, without a word or act to interrupt it. But now he is gone! Class-mate, friend of my manhood, friend of my riper years, friend at all times and under all circumstances—farewell! Thy memory shall always be sweet to me, and the recollection of our former friendship, esteem and love shall be a solace to me in my declining years.

HON. JOHN GAUL, of Hudson, then spoke as follows:

Mr. Chairman: I have on this occasion no studied eulogy to present. I came to these commemorative exercises as a friend of the deceased, and it would best accord with my

feelings if I were permitted to come up in silence and cast my tribute of affection on his bier, not thinking it to be remarkable because of its beauty or its fragrance, but because it is a kindly offering of pure affection. My acquaintance with our lamented friend does not date so far back as Judge Campbell. I only became acquainted with him in 1830. He was very little my senior in years, and we were admitted to practice about the same time. I have been permitted, perhaps in the more unostentatious ways of the profession to realize its duties and to enjoy its pleasures so far as the accomplishing any good I might accomplish furnished any reward, but from the time we were admitted together, onward, I have always found in him much to love and everything to admire. There were some peculiar traits in his character connected with his practice at the bar which some of our friends at the bar may not remember as well as we do who are of more advanced years, but there was always a singleness of purpose about him which commended him to the favorable and loving consideration of his associates. In the presentation of his arguments at the bar; in the presentation of a case, either before a court or jury, he was remarkable for seizing on the prominent points of a case, not attempting to amplify or dwelling on the minute particulars of a case, but selecting those parts which appealed directly to their common sense, he would dwell upon them with a power and a fluency which at once commanded the respect of those to whom his arguments were addressed. He was diligent in the prosecution of a cause; he was faithful to his clients and fearless in the discharge of his duties, and he pursued the law from no sordid motive of gain, never depending upon the force of declamation or of feeling, but upon the presentation of the strong points of the case, by which he was enabled to obtain the success he was entitled to.

Time would fail us if I were to undertake to present anything like a faithful portraiture of our lamented friend,

either professionally, socially or in his judicial life. The resolutions and remarks already made present him in a way that will be understood by all, and I will not take up the time of this meeting by adding to anything that may be said upon that subject.

The experience he obtained at the bar was of great use to him in the position he was called to fill and filled so ably; he was useful as a legislator, because he was known to be honest, intelligent and reliable. He was selected by the citizens of the county in which I live, for judge of the Supreme Court, and in the discharge of his duties at General Term, no one for a single moment doubted his integrity or thought his judgment could be influenced by anything that was not pure and proper; and his decisions made upon a case as presented to him, whether in the Supreme Court or in the higher tribunal, were always remarkable for the application of a practical common sense, and an almost intuitive perception of the strong points of a case, so much so indeed that he became one of the most distinguished judges of the day.

But there was one thing that was quite wonderful, as it seemed to me, and that was his fearlessness. Whenever there was an individual arraigned before him, no matter who he might be or what his position, he was fearless in meting out to him the proper punishment that was due to his crime. In this respect he is entitled to the commendation of those who survive him, and also to the respect and admiration of the profession of the state. We belong, Mr. Chairman, to an honorable profession: a profession which has avowedly for its purpose the accomplishment of justice and right. We belong to a profession which gives rise to earnest efforts on the part of those who are connected with it, with the simple view to ascertain the truth. We have lost an able associate under very peculiar circumstances. The event which took him from time to eternity has been rightly designated as a "sorrow of the sea."

Who can undertake to conceive the horrors of that time, when a period of twelve minutes only elapsed from the time the ill-fated vessel was struck, until she was under water? Who can conceive of the feeling and thoughts connected with the present world and that which was to come that crowded through the mind of our lamented associate, standing as he there did with the certainty of death before him? It was a sad and sorrowful day. With personal bravery undisputed, I can well imagine that he comforted his beloved wife in their hour of doom, and with calm tones he would say "If we must go down, let us go down bravely." But there is another idea connected with this sad calamity which I wish to express. It is the necessity which is suggested to each one of us by this event, of being prepared for such an event as overtook our deceased friend in the midst of the sea. What are the trials, what are the efforts of the present life in comparison with those things which appertain to our eternal state. The paths of glory, as has been aptly said by another, lead but to the grave. Descend into his clammy borders and you behold the wise and the weak, the humble and the noble, the rich and the poor reposing side by side; there the lips of the eloquent are speechless; the voice of patriot fervor is dumb; the banners of a thousand victories are furled forever: and the vanquished sleep with the victors. And death has now entered our circle; it has come within the last week and touched the dignified representative of this state, who for years filled a prominent position on the bench of the Supreme Court of the United States. As we come to these mournful exercises we are met with the intelligence that one of the judges of the General Term of this state, before whom a few days previous we were, and with whom we parted with a cordial shake of the hand, has gone to his long rest. Let us all, then, be prepared for this event which must sooner or later come upon us, without distinction of age or person; upon those of you

whose cheeks are full of youth and beauty, and fall upon the brow of those whose locks are bleached with the snow of seventy winters. Let us, then, so be prepared in life, that when we depart this life, in that great day, when the grave and the sea give up their dead, we may meet with the plaudit, "Well done, good and faithful servants."

HON. WILLIAM H. GREENE, of Albany then spoke as follows:

Mr. Chairman: When death takes from our midst one loved and honored as Judge Peekham was by us, we feel a shock and a loss that philosophy and religion are powerless wholly to wash away. Living this mortal life we cannot escape its sharp vicissitudes, its blighting bereavements, its final and inevitable wreck.

"There's a narrow ridge in the graveyard,
Would searee stay a child in his race:
But to me and my thoughts it is wider,
Than the star-strewn vague of spaee."

Our consolation is that the loss, the grief, the suffering are mortal too. Alone we come into this life, and alone, as it perishes, we sink away from it into the eternal sea, and no mortal voyager has returned to tell us the story of his dissolution, save One, who at the opened grave of Lazarus proclaimed "I am the resurrection and the life."

As our first parent stood in the after sunset of the primal day of time, and beheld the night with her mysterious pall, the fair earth and the heavens,

"Did he not tremble for this lovely frame,
This glorious canopy of light and blue?
Yet 'neath a curtain of translucent dew,
Bathed in the rays of the great setting flame,
Hesperus with the host of heaven came,
And lo! creation widened in man's view."

This beautiful conception from the noblest sonnet in our language, has an application here. In the revelation that shall come to each one of us in the night of life, we shall behold the after glory of every bereavement, we shall know that nothing is lost, nothing of love, nothing of worth, and who shall measure our gain?

In our deceased friend there were the broad outlines of a strong manhood, the very flower of gentleness and kindness, scorn of all pretense, meanness and falsehood, true courage and a strength of intellect that could not be restrained by any trick of argument or sophistry of law. In the manliness of his character there was a vigor and reality that compelled confidence. I gave him all of mine, for it was my privilege to know and honor him. His body sleeps now in its ocean grave, side by side with her who was nearest to him in life; but they are not there. Look for them, mourning friends, not in their stern and sublime sepulchre, but in the Father's house, where there are many mansions.

MR. HALE KINGSLEY, of Albany, then spoke as follows:

Mr. Chairman: In the presence of so many distinguished for their learning, ability and eloquence as are here to-day; in the hearing of those who were associates on the bench, contemporaries at the bar, and friends in the social circle of him who has gone down bravely into the depths of that unknown world, where time ceases and eternity begins, and whose memory we are here to reverence and cherish, I should, on almost any other occasion sit silent. But my heart prompts me to speak. I have no garland of rhetoric or wealth of eloquence to bring and lay upon the bier of him whose loss we this day mourn. I bring only a humble wayside flower, but I place it with respect and affection among the most fragrant which will be offered here.

Over a third of a century ago, I, a mere lad, entered the office of Judge Peckham as a student. He was then, in connection with his brother, in the full tide of a large and successful practice. Under his guidance and instruction, I remained for nearly six years, and during a large portion of the time, was his confidential managing clerk. It was in the good old days when the study of law was the pursuit of a science, and not the mastery of a trade. Almost every able lawyer of large practice had a number of young men in his office who pursued their studies under his guidance and direction. It was then considered a favor and a privilege to be allowed to enter Judge Peckham's office as a student. He was then laying broad and deep the foundation of learning upon which rests his legal and judicial fame. Industrious, earnest, persevering, painstaking and successful, he was to his "boys," as he was wont to call his students, at once a guide and a model.

Let others speak of him as they knew him in the more extended sphere of his public life; of his services upon the bench and of his triumphs at the bar. I love to remember him as I knew him years ago, the patient, kind, earnest instructor, or the young, ambitious, able and hard working lawyer. The young men, who have gone forth from his guidance and instruction to battle with life's cares, have been many and their careers widely different. Yet I do not believe there is one now living, who does not remember him and his kindness with the most sincere affection.

To many who knew him only as he appeared before the public he seemed stern, austere, cold and distant. Who that knew him intimately and well can say this is true? He did not give his heart to everyone, but when you once knew him, it was plain how deep were his attachments; how true and lasting was his friendship. During my long term of service with him, I never heard an unkind or harsh word from him. He was the same courteous, finished gentleman; the same patient, kind and earnest instructor.

He has gone from among us. The bar mourns the loss of a firm, independent, learned and upright judge. It is proper that as members of an honorable profession, we should leave a record here, an enduring tribute to his professional fame; but to the hearts of those that knew him as a man, there will be needed, not marble nor brass to keep his memory ever fresh, or to record their deep and never changing affection.

MR. E. F. BULLARD then said:

Mr. Chairman: When I came to this meeting I did not expect to take part in these proceedings, but you will, I know, pardon my intruding for a few minutes. The first I knew of our lamented friend was in the celebrated Rector case at the Saratoga Oyer and Terminer in 1835. He was then district attorney of Albany county, and was quite a young man. He was assisted in the prosecution by Willis Hall, then attorney general. Rector had been previously convicted of murder and condemned: a new trial was granted, and the case was removed to Saratoga county. He was defended by two of the ablest legal minds in the state, but although Judge Peckham was a young man, it was conceded on all hands, that in coping with these intellectual giants he fully sustained his reputation as one of the ablest legal minds in the state. In 1844 or 1845 he ran in competition with John Van Buren for attorney general, at that time the attorney general was elected by a joint ballot of the legislature. I remember how the latter succeeded by a few votes in securing the nomination. After that we met in congress. It was my good fortune to practice with him, to associate with him as counsel on the same side, and also to be pitted in contact with him as opposing counsel. The greatest tribute I can pay him is to say that I have ever found him a man of the highest integrity and great moral courage. He was fearless in all

things: he put on no hypocrisy, and in these days when there are so many hypocrites among our public men, it is refreshing to contemplate a man like him who was willing to state his convictions and to take the consequences of it. In 1854 I was in congress when he made his great speech on the Nebraska question. He then spoke against the belief and opinions of ninety-nine out of a hundred of his political friends, and yet he combatted their opinions, advocated his cause and spoke for two hours with such ability that he was congratulated by every member of the house, although they did not agree with him. We then find him in the highest court of the state. He was no man to follow precedent unless precedent guided him to truth and justice. While other judges would tremble unless precedent led them on, he would fearlessly give his decision and stand by it. We were therefore not surprised nor disappointed that he expressed himself in his last great trial as he did. Looking into the portals of the next world, as he then did, he died as he had lived, an honest man, and uttered these words: "If we must go down, let us go down bravely."

The resolutions were then put and unanimously adopted.

Hon. W. W. Campbell then moved that a Committee be appointed to prepare a suitable memorial pamphlet to the memory of Judge Peckham. Carried.

The Chairman appointed as such Committee Messrs. Paul F. Cooper, S. O. Shepard, Grenville Tremain and Amasa J. Parker jr.

Mr. Hand moved that the name of Judge Campbell be added to the list. Carried.

Mr. Hand moved that the Committee on Resolutions be instructed to present the resolutions which have just been

adopted, to the Court of Appeals, now in session, also to the Circuit Court, which is now in session in this city. Carried.

Mr. Orlando Meads moved that a copy of the resolutions be sent to the family of the deceased. Carried.

HON. JOHN H. REYNOLDS said:

I have received a letter from a very dear friend of Judge Peckham and I will read it.

WASHINGTON, Dec. 6th, 1873.

HON. JOHN H. REYNOLDS:

My Dear Sir: Learning from the Albany papers that you have been appointed one of the Committee to call a meeting of the bar for the purpose of giving expression to their sentiments in honor of Judge Peckham, I take the liberty of addressing you this communication upon that subject, leaving it to your discretion to determine whether it shall be presented to the meeting. It would afford me some sorrowful pleasure to attend such a meeting, although the overwhelming emotions of my heart would compel me to remain a silent spectator of its proceedings.

For more than a quarter of a century, as you, my dear sir, well know, relations of the most intimate personal friendship have existed between myself and our lamented friend, whose loss we all mourn. During all that time, including the many pleasant years when we were partners in business, not a single word of difference or shade of dissension has ever disturbed the delightful harmony of those friendly relations. Of course I came to know him most intimately, and was proud to number him as one of my dearest and most valued friends.

Of tall and commanding form, with remarkable dignity

and gentlemanly courtesy, nature had stamped upon him the impress of true nobility. Wherever he moved among his fellow-men, his noticeable and manly appearance could not, and did not, fail to attract attention and admiration.

He was a thoroughbred lawyer, admirably trained in the principles and practice of his profession. Possessing rare powers of discrimination, united with a soundness of judgment almost infallible, he had the wonderful faculty of seizing, as by intuition, the strong and controlling points of the case on trial, and, by stripping it of all irrelevant matter, exercising both at the bar and upon the bench, most extraordinary power over a jury. You and I know well with what marvelous celerity he could, without ostentation and in the most quiet manner, dispose of the business before him at the circuit, and at the same time how loyal he was to legal precedents and true to the claims of justice and truth. While the lawyer who had these auxiliaries on his side required but little time or labor to satisfy the court, no amount of learning or sophistry, on the other hand, could for one moment embarrass his action or confuse his great and powerful intellect.

But all his other attributes, noble and various as they were, were only secondary in the presence of that pure and incorruptible integrity of character which constituted the prominent and characteristic trait of his nature. He abhorred, from the inmost recesses of his soul, all shams, all hypocrisy and every semblance of fraud and corruption. He was as true to his convictions of duty as the needle to the pole. Although a man of strong friendships and decided political convictions, yet when he was on the bench, his warmest friends received no favors. Being himself the very soul of personal honor, he looked upon everything that was mean, low or dishonest in friend or foe, in individuals or parties, with a hatred so intense and a frankness so outspoken, that in these respects no superior survives him.

Judge Peckham proved himself fully equal to every

position of honor and trust in which he was placed by his country. This letter must be too brief to refer to these in detail, but surely no higher praise can, or need be conferred upon his memory than to say that when he was elevated to a seat upon the bench of the highest court of our noble state, he proved himself fully capable of discharging its high duties and responsibilities, and was a fit and worthy compeer of his illustrious colleagues in that tribunal.

These associates with whom he had mingled for more than three years, in almost daily intercourse, had learned to appreciate his virtues. I have just perused, with swelling heart and tearful eye the beautiful tribute to his merit, signed by them all, and I know that these were not formal words of ceremony, but that they came welling up from the heart. Ah! how feelingly did he allude in our conversation the evening before he sailed, to the delicacy and kindness with which his brethren had urged him to go abroad in search of renewed health, and had offered to perform his duties just as long as he desired to remain!

The closing scenes of his life form a fitting and harmonious termination to his honorable and well spent career. It is past midnight, and when the ship on which he was a passenger was at mid-ocean, a fearful collision occurs. Judge Peckham, accompanied by his devoted wife, being aroused from their slumbers, rushes on deck. There he beholds the angry waters of the ocean rushing into the terrible chasm of the steamer, produced by the collision. The ship is filling and sinking rapidly. All hope of safety is gone. The falling masts are killing some, while terror and dismay fill the hearts of others of the passengers and crew. In that hour of supreme peril, Judge Peckham encourages his wife and others around him, and exclaims: "If we must go down, let us go bravely," and courageously, without a murmur or a groan, sinks forever beneath the waves of the sea.

Those noble words sent a thrill of admiration through the hearts of millions of people in Europe and America. Among the multitudes of noble dead, who, in the centuries that have passed, have gone down at sea, no purer, no nobler heart, has ever perished than that which beat in the bosom of Rufus W. Peckham. The memory of his genius, his worth, and God-given virtues ought to be perpetuated.

I am yours faithfully,

LYMAN TREMAIN.

HON. WILLIAM M. EVARTS rose and said:

Mr. Chairman: It has been the custom for many years, when a celebrated judge or advocate, or a worthy or useful lawyer passes from life, for our profession to regard it not as a private loss to be shared only by intimates, not only as a great personal loss to the great brotherhood of the bar, but really as a matter about which, without affectation and without arrogance, we might feel there was a great public interest. For this sentiment and this action there is of course needed no excuse when the occasion which assembles us, is the death of a man high in the public service of this or of any civilized community, more especially when that service is the public administration of justice. I hope, sir, that the time will never come when by any aid of ours, either by our conduct in our profession, or by our speech and actions concerning the judiciary, this public disposition will ever be weakened. If there be anything, sir, which, in my judgment, characterizes the American people, and which they will never willingly let go, it is that the administration of justice by a learned and upright bench, and under the guidance and aid of an intelligent and worthy bar, is the highest form of public service, upon which the greatest and nearest social requirements depend. And we, sir, in the city of New York, though not enjoying the opportunities of personal intimacy, which in Albany and the

nearer parts of the state to the seat of government, were enjoyed by our brethren, were not unfamiliar with Judge Peckham as a lawyer and a judge. We had not been unmindful of the traits of his personal character, of the achievements, of the public career, or of the great public benefits he had conferred on the station to which his fellow citizens had called him. We had ourselves received, in some dark days of our judicial establishment, and in some periods of shame and disgrace to our bar, important aid and benefits from the presence of this manly, fearless and upright judge, holding courts that would be respected and obeyed. I believe it is a true praise, Mr. Chairman, of our deceased friend to say that he took this public view of our profession, and this reverend estimate of the judiciary, and went through all his life helping to uphold the law and the profession of the law, helping to maintain justice and organized means for its administration. He has fallen and it becomes us to give a lead to the public sentiment of admiration and regard, of grief and reverence which attend his loss. It is very strange the vicissitudes which may attend the quiet and unostentatious life of a peaceful citizen, the death of Judge Peckham, a death without a death-bed, and a burial only under the waters of the sea. That seemed to be as private a transaction as could well happen, where at midnight and at sea a calamity should overwhelm the whole and none be heard of, as has now been manifested before humanity, on the land which knows no such dangers, either for a general who dies at the head of his army, or a statesman who falls like John Quincy Adams in the House of Representatives. There is no scene in which the death of a man forms a single subject that is so very tragic and should be so remarkable as this death of Judge Peckham. Neither poetry, nor art, nor imagination can form a scene more striking and tragic than that, that touched more human hearts, more deep-seated emotions of our nature, irrespective of tongue,

of language, of clime or of nation, and this, our judge of the state of New York, shall be remembered as the one who gave the moral dignity and added to the moral lesson of that sublime scene. Mr. Chairman, we may share, and do share the enjoyments and duties and honors of life, but every man must die alone. That is the one personal relation which permits of no participation. We may live in the market-place, and in the glades, and in the forum, and in the senate, and in the council chambers, and in the courts, but we must die alone, and whenever death comes, it comes as an exit through one gate, through an unknown valley, and under the dark shadow of death, through which no sight can guide, and in which faith only can uphold.

Hon. John H. Reynolds moved that the meeting adjourn. Carried.

ALBANY CIRCUIT COURT.

After the meeting had adjourned, the Circuit Court, Mr. Justice Ingalls presiding, reconvened at the City Hall. Hon. Amasa J. Parker moved the court that the resolutions that had been adopted at the bar meeting should be entered upon the minutes of this court, out of respect to the memory of the deceased.

The court in granting the motion took occasion, in a few words, to express its sense of the loss sustained by the bench and the bar, in the death of Judge Peckham.

In The Court of Appeals.

At one o'clock on Thursday, December 18, 1873, the foregoing resolutions were presented to the Court of Appeals, when

HON. JOHN H. REYNOLDS spoke as follows:

The symbols of mourning, visible in this chamber, give us admonition of a public calamity, and that vacant chair, in its eloquent silence, tells us of our great affliction. Not long since it was worthily filled by a gentleman, who commanded the respect and had the confidence and regard of the bench and bar and the people of the state. A disaster, without parallel, has consigned him to the waters of the ocean, and we now strive to give adequate expression to our grief. A very large meeting of the bar of the state was convened in the Capitol yesterday, to pay a tribute of respect and regard to the memory of Rufus W. Peckham, and adopted resolutions that seemed to them appropriate, and directed that they be presented to this court, with a respectful request that they be made a part of its records. Having been in part charged by my brethren of the bar with the performance of this duty, I now prefer their request and present the resolutions.

(Resolutions were here presented.)

Permit me to detain you for a moment longer. Painful as this bereavement is to the public and to the profession,

I can not but regard it as a personal affliction. For twenty-five years of a somewhat active life, I have had most intimate relations with Judge Peckham. Upon many questions we have agreed and upon others we differed, but never in unkindness. I have been both his associate and adversary in struggles at the bar, but never found him unequal to any occasion, or unmindful of the proprieties or the dignity of the profession. I have enjoyed his generous and elegant hospitality, and his valued friendship in forms too numerous to be now mentioned. When he was elevated to the bench, our relations of necessity were changed in some degree, but never in the nearer and kindlier associations of personal regard. I can bear testimony from the experience of years to his judicial independence and impartiality. Always patient and dignified, he possessed himself of a case almost by intuition, and disposed of it with a most scrupulous regard to the rights of suitors in every respect consistent with the demands of justice. He respected precedents and followed them so far as they tended to a just result, but if they seemed to take a wrong direction, he was brave enough to prescribe their appropriate limit. In short, he was a model judge as he was a loved and honored man. It was said yesterday by a distinguished member of the bar, that Judge Peckham died without a death-bed, and he might have truly added, was buried without a shroud, or a coffin, or a grave. The ordinary rites of sepulture were denied him, and we are not permitted to give to his remains those tender offices that are ever dear in the hour of affliction; but the sentinel stars in mid-ocean will watch the place of his repose until by divine command the great deep shall give up its dead.

MR. SAMUEL HAND then said:

May it please the court, I am one of those entrusted with presenting the resolutions expressing in fitting terms

our grief and regret for the tragic and fearful loss of one of the most venerable and most distinguished of your number, and I desire to add a word of tribute and of commendation. It is not, especially on an occasion like this, my object to commemorate his virtues as a man. Much has been said—truly and eloquently said—by the public press, in the pulpit of this city, at the meeting of the bar yesterday, and by his associates and friends here at home, of his excellency as a citizen, his tenderness as a husband, his kindness as a father, his uprightness and well-doing as a man. Here, however, in this court, while these virtues should be fittingly dwelt upon, yet more particularly are we to call to mind his character as a lawyer and a judge. And it behooves us more especially to mourn the great loss which the bench and the bar have peculiarly suffered in his death. As one of those who have had the advantage of almost constantly observing his career upon the bench for the last ten years of his life, and noting his characteristics in that station, I can not refrain from here giving my humble testimony to his great merits displayed in the discharge of the duties of that office. No one who followed with attention the judicial career of Judge Peckham, could fail to observe the thorough acquaintance which he had acquired, probably comparatively early in life, with the principles of the law. Present what legal topic you would to him, while sitting upon the bench, and though unprepared by any special study to grapple with it, and though unaided by any thoroughness of discussion from counsel, you would invariably find his mind stored with the legal doctrines applicable to the case, and ready to apply them promptly.

If we were called upon, however, to designate the prominent trait, the leading characteristic of his mind, we would all, I think, unite in saying that it was not so much breadth, though his intellect was broad; not so much solidity, though its foundations were firmly laid; not so much subtlety,

though its perceptions were acute, as directness, a kind of straight-forwardness which went to the bottom of every question. By no eloquent sophistries, no bewildering plausibility, no piling up of precedents, did it seem possible for a moment to divert or to obstruct his strong and piercing intellect from reaching the very heart of the matter before him. Persistent, undeviating, unerring, irresistible, he pierced to the centre. Of the many valuable results from this really great quality, not the least valuable, was the absolute freedom it gave him from all eccentricity or absurdity in his conclusions.

Of that learning in the law to be acquired from books, Judge Peckham had accumulated a large store, and unlike some of his contemporaries, he was not solicitous that all he had should at all times be displayed. His knowledge of the leading cases by which both the frame of common law and equity have been in the course of centuries shaped and strengthened, was wide and extensive, and nothing could be more hearty than the contempt which he expressed for those legal tyros who affected to cling to some vague, first principles evolved out of their own inner consciousness, and to despise the knowledge of adjudicated cases, as if an arbitrary science could be known, as a whole, in total ignorance of its parts.

In forming his judgments the Judge was eminently prompt, decisive, and completely independent. Fearless of popular clamor on the one hand, he was not swerved by the influence of great corporations, nor by the frowns of those in power. To the many intellectual and moral characteristics which so strikingly fitted him for a judge, were added great dignity of bearing, an erect and commanding figure, and altogether a noble presence, inspiring respect and even veneration. Such was he known to all. It seems but yesterday that we saw him in his place, his fine head white with the frosts of a vigorous age, and his tall form sitting erect among his compeers of the court,

his face somewhat wasted, and with lines hollowed by the exhaustion of his unwearied official labors, but with eye still bright, and countenance clear, patient and attentive. Worn down by devotion to the duties of his high office he passed from that place to seek rest for a time across the broad ocean in a foreign land. Suddenly, awfully, he found rest, but a rest eternal, never again to be disturbed by the cares, the labors, the joys or sorrows of this life. The great Atlantic is his grave, its mighty surges and its wild winds wail his requiem, while we, gathered here at his home, far away from his last resting place, mourn him deeply, but we mourn him not as one cut off in the mere promise and blossom of life, but as one who has borne ripe fruit, who had run well his race, who had accomplished a long and an honorable career.

CHIEF JUSTICE CHURCH said :

The members of the Court took an early occasion on the receipt of the mournful intelligence of the death of their lamented brother, to express their appreciation of his character and services, and their sense of public loss, and their own loss of an intelligent and honest associate. While it would be inappropriate to repeat them on this occasion, they desire to assure the bar that they are gratified at the action they have taken, and that they fully concur in the sentiments so well presented, and so eloquently enforced by the remarks they have just listened to. The motion made to enter them on the records of the court, is granted, and as a further evidence of our feeling, the court will now adjourn.

Letters.

State of New York, Commission of Appeals,
FLATBUSH, L. L., Dec. 16th, 1873.

MATTHEW HALE, Esq., and other members
of the bar, Committee, etc.,

My Dear Sirs:

I very much regret my inability to attend the meeting of the bar of this state, to be convened at Albany to-morrow, for the purpose of commemorating the high and public services of the late Judge Rufus W. Peckham. Permit me, however, to express my high appreciation of his eminent judicial abilities, and his inflexible integrity in the discharge of his official duties.

With a full and cordial approval of the object of the meeting,

I am very respectfully, yours, &c.,

JOHN A. LOTT.

State of New York, Commission of Appeals,
ELMIRA, Dec. 15, 1873.

Gents:

I am invited by you to attend a meeting of the bar of this state, at the Capitol, on the 17th inst., at eleven o'clock A. M., to commemorate the life and public services of the late Judge Rufus W. Peckham. I regret my inability, on account of other engagements, to attend. Judge Peckham

was an honest man, an able lawyer and a just judge, to whose example and teachings the only surviving members of his family, his two sons, already eminent in our profession, are mainly indebted; to them the bereavement is irreparable; and the bar, by his demise, are bereft of the society and services of one whose example and public services have shed lustre upon the profession.

Very respectfully, yours, &c.,

H. GRAY.

Hon. MATTHEW HALE and others, Committee.

State of New York, Commission of Appeals,

UTICA, Dec. 16, 1873.

Hon. M. HALE,

My Dear Sir:

I had expected until this morning to be present at and to take part in the meeting in memory of Judge Peckham, to-morrow, but I now find that it will be impossible.

I have the satisfaction of feeling sure that there will be no lack of tongues to speak their sense of his worth and our loss: nor of hearts to attest the sincerity of all that must be said in his praise.

He was certainly an entirely pure minded and upright man with a strong and intuitive sense of justice, to the realization of which, in his judgments, he brought to bear all his stores of wisdom, and all the resources of his acquired learning in the science of the law. Under a manner at times somewhat stern in seeming, he possessed a very warm and tender heart, which won and kept the regard of all who gained his intimacy. His friendship was priceless, for it was always founded on esteem, and it was enduring and faithful. He was full of courage and his purposes never failed of effect for lack of will.

I think the last glimpse we get of him, as he stood waiting to be engulfed, on the deck of the sinking ship, his wife by his side, saying quietly to the despairing crowd about him "If we must go down, let us go down bravely," is as true a touch of his real character as can be given. It is the one trait worth remembering which that awful calamity has given to mankind.

Regretting again that I cannot be with you to-morrow, I remain,

Yours very truly,

ALEX. S. JOHNSON.

[From Judge Barker.]

In Court, at Buffalo, Dec. 15, 1873.

Gentlemen:

It seems impossible for me to gratify the strong personal wish I have to attend the meeting of the bar of the state, to be held on the 17th inst., at Albany, to commemorate the life and character of the late and lamented Judge Rufus W. Peckham.

It is a common sentiment of the bench and bar in every section of the state, that Judge Peckham was an able and upright judge, and adorned his high judicial position, that in his death the state, his associates upon the bench and the legal profession at large, have suffered a sad and great loss.

Yours, very truly,

GEORGE BARKER.

To Hon. MATTHEW HALE and others, Committee.

CANANDAIGUA, 13th December, 1873.

The Hon. JOHN H. REYNOLDS and others, Committee, &c.:

Gentlemen:

I regret that I cannot accept the invitation in your note, just now received, to attend a meeting of the bar at Albany on the 17th inst., in commemoration of the late Judge Peckham, but I use this opportunity to express my appreciation of his great worth as a man, a lawyer and a judge, and my lively sense of the public loss, as well as the individual bereavement, involved in his tragic and lamented death.

With respect, truly yours,

JAMES C. SMITH.

[From Judge James.]

OGDENSBURG, Dec. 15, 1873.

Hon. M. Hale, and others.

Gentlemen:

Your note, inviting me to be present at a meeting of the bar of the state, called for the 17th inst., at Albany, to commemorate the life and public services of the late Rufus W. Peckham, did not come to hand until this morning.

I extremely regret my inability to be present at the time designated; though absent in person, I shall be with you in spirit, sympathizing with my brethren of the bench and the bar at the great loss both have sustained in the death of one so able as a lawyer, upright as a judge, and manly as a friend.

Yours, &c.,

A. B. JAMES.

Superior Court, New York, Dec. 13th, 1873.

To MATTHEW HALE, Esq., and others of the Committee
of the Bar of Albany County,

Gentlemen:

The bar of Albany county have done well in calling a meeting in the Senate Chamber, in which the bar of the state can participate, to commemorate the life and public services of the late Judge Rufus W. Peckham. Great good is done the state in commemorating the lives of men honorable and useful in the public service. Their just fame is a heritage to be conserved by those who follow. The General Term of the Superior Court, Saturday, adopted and ordered to be entered on its minutes, appropriate resolutions in recognition of the sterling integrity, love of justice, firmness, learning and ability, which so distinguished the deceased. It was my privilege to have known Rufus W. Peckham many years ago, and at the time of my admission to the bar in Albany county. He was then distinguished among the many able advocates of that county. His generous, unselfish, independent and honest nature, I loved and respected.

He truly deserved the great success to which he attained at the bar, and his distinction as an able and learned judge.

His judicial record is honorable and without a stain.

I beg to remain truly yours, &c.,

HOOPER C. VAN VORST.

POUGHKEEPSIE, N. Y., Dec. 15, 1873.

Gentlemen:

Your letter of invitation to participate in the meeting of the bar of the state to commemorate the life and public services of the late Judge Rufus W. Peckham, to be held in the Senate Chamber at the Capitol, on the 17th instant,

is at hand. I greatly regret that a previous appointment for the same day, one from which I cannot be relieved or excused, will prevent my attendance.

In the death of Judge Peckham the state has lost a pure, learned and industrious judge, and the bar should give public recognition of his worth and great public services.

Mourning with you the loss of an honest man and upright judge, I am

Truly, &c.,

H. A. NELSON.

Hon. MATTHEW HALE.

New York Superior Court, *December 15, 1873.*

Hon. MATTHEW HALE, and others,

Gentlemen:

I am in the receipt of your note inviting me to be present at a meeting of the bar of the state, at Albany, on the 17th instant, to commemorate the life and public services of the late Judge Peckham, and I regret that I cannot be with you, in paying this further tribute to the memory of our deceased brother.

Born and practicing for several years in an adjoining county, I was early brought into professional and friendly relations with Judge Peckham, which furnished me with many opportunities for learning the grand and noble qualities, which have so eminently distinguished his life.

As a lawyer he stood high among the eminent of the Albany bar. As a judge his rank has been with the learned and just. To a suavity and dignity of manner, he added firmness and decision. These commanded the respect, while his genial and courteous manners won the esteem of all. And his social life, marked by the same characteristics, secured for him many friendships. All these ennobling

qualities stood forth in brightest prominence when in the last awful moment he met death with heroic words upon his lips.

The shock of the sudden death of Judge Peckham has been felt everywhere in the state, and his loss to its jurisprudence cannot be over estimated.

In this deserved tribute to his memory, I fully concur, and while I mingle my sorrows with those who will be present, I desire also to extend my sympathies to the bereaved family, who mourn his untimely end.

I am with great respect,

Very truly yours,

Claudius L. Monell.

New York Superior Court,
Judges' Chambers, New Court House,

NEW YORK, Dec. 15th, 1873.

Hon. MATTHEW HALE, Chairman of the Committee
of the Albany County Bar.

Dear Sir:

I regret that duties here will prevent my participating in the commemoration, at the Capitol, of the life and services of Judge Peckham. I had scarcely received the note of your Committee, which recalled to me the great loss the state suffered in the sad fate that deprived it of the services of a judge, so earnest, able, upright, and so zealous for truth and right, and with apparently many years before him, than the telegraph brought tidings of the death of another eminent judge, whose life had been preserved far beyond the ordinary term of human existence, and to whose wisdom and long extended public services, the whole country owes a debt of gratitude. Judge Nelson goes to his grave with the reverence and love of all of us who knew him personally, and in the fullness of time; but in the untimely fate

of Judge Peckham, we lose a friend and a judge, in the meridian of his strength and usefulness, and who, in accordance with the laws of nature, might have been preserved to us for years.

Though the summons was brief on the deck of the sinking vessel, it was received with the calmness and courage ever shown by the bravest and the most hopeful.

With thanks for the kind invitation, believe me,

Very truly yours,

W.M. E. CURTIS.

New York, December 15th, 1873.

Hon. MATTHEW HALE, JOHN H. REYNOLDS,
and-others, Committee,

Gentlemen:

Your invitation to attend the state bar meeting at Albany, on 17th inst., is received, and I sincerely regret that my engagements will not permit me to be present.

It would be a satisfaction, though a sad one, to add my humble tribute of personal respect to him whose excellency and whose loss, this assemblage is to commemorate and to deplore.

I entertain so lively and pleasant a recollection of hours of social intercourse with Judge Peckham, and have felt such confidence and satisfaction in his judicial character and attainments, when it has been my fortune to appear before him professionally, that his loss seems a more than ordinary blow.

The horror of the disaster by which he has been so suddenly snatched from us, is however, as I think we all feel, measurably alleviated by the accounts which we receive of the calm, manly courage, with which he stood face to face with death.

He met the last great enemy, as steadily and bravely as he encountered the varied emergencies and responsibilities of life.

I desire to be considered as uniting, though not personally present, in any action taken by my brethren of the bar, to honor the memory of the deceased judge.

Yours, very truly,

TOMPKINS WESTERVELT.

NEW YORK, December 16th, 1873.

Hon. MATTHEW HALE,
My Dear Sir:

I have received an invitation from a Committee of the bar of Albany, to attend a meeting to be held at the Capitol in Albany to-morrow, to commemorate the life and public services of the late Judge Rufus W. Peckham.

I greatly regret that an imperative engagement here will prevent my participation in the proceedings to honor the memory of this able, just and learned judge.

The sad termination of his honored and eventful life has filled many hearts with grief, and his life-long friends, of whom I think I may claim to be one, with inexpressible sorrow.

His career and its sudden termination impress upon the hearts of survivors, with great solemnity, the truth of the remark of England's great orator:

“ What shadows we are,
And what shadows we pursue.”

I have the honor to be, with great respect,
Yours truly,

HENRY E. DAVIES.

NEW YORK, Dec. 16th, 1873

Gentlemen:

I had the honor to receive your invitation to participate in the meeting of the bar to commemorate the life and public services of Judge Rufus W. Peckham. And it is with sincere regret that I find it impossible to be present.

The public life of Judge Peckham as a leader in the profession and an upright and able judge, was such as to render it fitting that the profession throughout the state should join in honors to his memory. And the heroism with which he met his sudden and awful death supplies for us all an illustrious example to which we may point with just pride, and the spirit of which we should wish to emulate.

Very respectfully,

C. A. HAND.

Messrs. MATTHEW HALE, AMASA J. PARKER,
and others of the Committee.

UTICA, Dec. 17, 1873.

Hon. M. Hale, and others,

Gentlemen:

I returned from my Oswego Special Term to-day, too late to comply with your invitation to attend the meeting of the bar of the state at Albany, this day, to commemorate the life and public services of Judge Peckham.

Nothing short of actual engagement in court would have prevented my attendance.

His acquaintance of thirty-five years' standing, gave me a high estimate of his character and services. While he was always vigorous, bold and independent in thought and action, he was a man of warm affections, and was moved by kind and compassionate impulses.

Few judges ever equalled him at the circuit in the readiness and promptness with which he dispatched business, or in the clearness and conciseness of his judgments.

In the General Term and court of last resort in this state, by the common judgment of his associates and the bar, he discharged the full measure of his duty with dignity and rare intelligence.

Through a long public career in the numerous offices of public trust which were conferred upon him by reason of the public estimate of his character and ability, he impressed the public with an undoubting confidence in his integrity. He was kind and affectionate as a parent, firm and unflinching as a friend, pure and upright as a public officer. His large acquaintance and the general confidence his acquaintances reposed in him, will make his loss to be widely felt. All over the country his death is deplored, and the deepest sympathy is felt with the surviving members of his family.

The general features of his character were so distinctly marked that when it was announced that some one was heard to say on that ill-fated night when the Ville du Havre was about going down with its precious load, "If we must go down, let us go down bravely," we were all confident that if that declaration was traced to any one it would be to Judge Peckham. With no element of meanness, there was a dignity and elevation in his character we all admired.

Very respectfully,

Yours, &c.,

C. H. DOOLITTLE.

LOCKPORT, Dec. 16, 1873.

HON. GEORGE C. GREENE and
JOHN E. POWERS,

Dear Sirs:

At a meeting of the members of the bar of this city held at the office of G. W. & L. F. Bowen, Hon. Hiram Gardner was called to the chair, and M. M. Southworth appointed Secretary. It was the unanimous wish of the meeting that you should attend the meeting of the bar of the state, to be held at the Capitol at Albany on December 17, to participate in the proceedings of that meeting to commemorate the life and public services of the late Judge Rufus W. Peckham.

Respectfully yours,

M. M. SOUTHWORTH, SEC.

Messrs. HALE, PARKER and others,
Committee, &c.,

Gentlemen:

I was absent from home last week and did not return until late Saturday evening, when I found your letter, inviting me, and others, to attend a meeting on the 17th inst., to commemorate the life and public services of the late Judge Rufus W. Peckham.

I regret I was unable to attend, for I should have heartily joined in an expression of the appreciation of the worth of that eminent man. I knew him well for more than thirty years, and I can bear testimony that, during his long and successful career, he maintained the character of a highly respectable citizen, an able lawyer, a profound judge and a gentleman, and I join in any expression of regret and

sympathy by the meeting, for this great loss to his family and the community.

I am with great respect,

Gentlemen, your ob'dt serv't,

A. C. H. AND.

ELIZABEHTOWN, *Dec. 22d, 1873.*

UTICA, *March 7, 1874.*

Hon. MATTHEW HALE, and others,
Committee, &c.,

Dear Sir:

In the various notices I have read of the late Judge Peckham, I see no mention made of that part of his history which had a great influence on his personal and professional character. His first steps in legal training were taken in this city, where he entered as a student the office of Messrs. Beardsley and Bronson, then leading lawyers in central New York, and each of whom became distinguished as a judge and a public man. At that time the bar of Oneida county was marked for the learning and character of its members; Spencer, Maynard, Storrs, Denio, Kirkland, Noyes, Foster and other men of great ability were in active practice. Their eloquence, skill and learning made a great impression upon the active, energetic, ambitious mind of Mr. Peckham. He watched the trial of causes and listened to the arguments of counsel with great interest. While he was fond of society and took a part in the amusements natural to his years, he was at the same time studious and attentive to all his duties; as I was a fellow student in the same office, and as I knew him intimately in his after life, I could see the traces of these early influences throughout his professional career. He always kept up his acquaint-

ance with the members of the bar of Oneida county, and with Judge Beardsley and Judge Bronson, he maintained through their lives a close and friendly relationship. When a young man (as in his later years) he was earnest, active and energetic. He was a leader among his companions, but his boldness was always tempered by a sound judgment. In his bearing he was courteous and dignified. The distinction he gained as a lawyer and as a judge, followed naturally and logically from the characteristics he shewed at the outset of his life and was in no degree the result of any of those accidents which sometimes lift men into positions which they could not gain by their innate powers. He was one of the few men whose future honors could be foreseen from the very beginning of his professional course.

I am prompted to send you this brief sketch of his character, as a young man, by the friendship which I then conceived for him, and by the high regard which I always entertained for his character and abilities.

I am, truly yours, &c.,

HORATIO SEYMOUR.



New York City Courts.

—••—

THE LATE JUDGE PECKHAM.

*Adjournment of the Courts on Friday, December 5th, 1873,
out of Respect to His Memory. Remarks
by Members of the Bar.*

Nearly all the courts in New York city adjourned Friday as a testimonial of respect to the memory of the late Judge Rufus W. Peckham, of the Court of Appeals, whose sad and untimely death on the ill-fated Ville du Havre is one of the most painful records of that terrible disaster. Leading members of the bar, in moving the adjournment, spoke with a warmth of feeling and emotion, which showed their appreciation of the marked abilities and probity of the deceased, and the judges, in ordering the adjournments, reëchoed the sentiments in language of like fervency and painful emotion.

OYER AND TERMINER.

In the Court of Oyer and Terminer DISTRICT ATTORNEY PHELPS, moved an adjournment of the court in the following address:

I think, Your Honor, that this court should not adjourn without something to give expression, in some degree, at least, to the feelings we must all have experienced consequent on the sad intelligence which reached us on Monday last. The terrible calamity of which we were then first advised, although the victims had been sleeping for the last ten days in their watery graves, was one which reached far and wide in its effect of sorrow and gloom, bringing desolation to many a heart in this country and in other lands, uniting in one common misfortune men of various nationalities, of various pursuits and creeds, and it nobly illustrated the power of the common faith, which, by the ministers of various sects and denominations, manifested itself in the same spirit of resignation upon that awful day. But, while we all felt the shock of that misfortune, I think that to the members of our profession, and to those who are accustomed to practice in this court, it comes with unusual force and has impressed us with unusual solemnity, for by that calamity one was taken from a position of high usefulness and honor in this state, taken from a position of eminence and reputation which he had reached by a long life of honorable and useful industry, in which he had adorned our profession in various situations, in all of which he had comported himself as became a high-minded, honorable and Christian gentleman. I need not say that I refer to that illustrious member of the court of last resort in this state, Judge Peckham, who was taken from his place of usefulness and honor by this calamity. Judge Peckham had been before the people for many years in conspicuous positions. He was for many years public prosecutor, representing the people of the county of Albany; again in the Federal Congress, in the Supreme Court and in the Court of Appeals: and in all of those, where his good fortune or the suffrages of his fellow-citizens placed him, he bore himself with conspicuous fidelity to trust and manifestations of ability and integrity.

No one familiar with his course on the bench, or the opinions which emanated from him, can deny that there has been removed from the bench of the Court of Appeals of this state a most useful, a most honorable and a most able judge. And yet, sir, in this hour, recalling him as I do—for I think that I saw him on the very day on which he left this port to seek recreation and rest in a foreign land—I think that we who knew him personally love now to linger rather on his qualities as a man than on his eminence, however great it may be, as a lawyer and a judge, and I take great pleasure in recalling the last recollection of a great and good man which came across the water to us, as the last thing seen of Judge Peckham, when he stood on the deck of that ill-fated ship, and said to those around him, like the gallant Christian gentleman that he was, “If we are to go down, let us go down bravely.” I move that in honor to his memory and as a manifestation of esteem for high qualities and regret for his loss, that this court now adjourn.

COLONEL FELLOWS, in seconding the motion, said :

I may be permitted to express the sentiment of each heart, the concurrent sentiment of our profession, that by that sad event we have sustained the loss of a jurist who illustrated and graced every position to which he was called, and reflected honor on a noble profession and the bench to which the voice of his fellow citizens called him. Unbending as a judge, stern in integrity, yet characterizing all his actions by a judicial impartiality and fairness, he long ago, and each day he lived, to a higher degree, won the confidence of all who came before him interested in cases, and of the great community whose interests were confided to him. Broken down by long labors, he went abroad to seek health and the relief that might come from rest from his toil. He went to his death, but not until he

had gathered the full measure of honest fame and renown to himself, and in every court over which his jurisdiction extended, such tributes as that which was heard from the eloquent district attorney this morning, will be paid, and every member of our profession will remember him with respect, admiration, veneration and esteem, such as becomes his high position, his elevated qualities and sterling worth, and will look on him as a great exemplar and standard in our calling.

JUDGE INGRAHAM spoke as follows:

I concur with the counsel in everthing said in regard to Judge Peckham. My opinion of him was formed from long personal acquaintance. He was a learned, upright, fearless judge, and in all the relations of life, whether public or private, he entitled himself to the approbation of his fellow citizens, and the esteem of the profession. It is due to his memory that this motion should be granted and entered on the minutes of the court as the cause of the adjournment. His death is deplored not only on account of the loss sustained, but on account of the sudden and awful manner of that death.

COURT OF COMMON PLEAS.

In both trial branches of the Court of Common Pleas similar proceedings were had. In Part I of the Court, Chief Justice Daly presiding, Mr. AUGUSTUS S. SMITH, in moving an adjournment, said:

If your Honor please, it is understood, I believe, that all the courts in the city will adjourn to-day in deference to the consideration that the bench and bar have so recently met with a great loss by the disaster at sea of one of the

judges of the highest court of the state. This does not seem to me a fitting time for any eulogy upon the deceased, but I would wish to refer to one thing that I have observed, for it must be a melancholy satisfaction to the family and special friends of Judge Peckham to know that he died as he did.

It will be remembered probably, by others than myself, that it is said in the papers that at the last moment, when it was certain that they must die, he was heard to say: "If we must die, let us die bravely!" I move that this court adjourn, and that a proper minute be made upon the records of the court.

MR. T. C. T. BUCKLEY, in seconding the motion, concurred in the expressions of sorrow everywhere expressed for the deceased, and sympathy for the surviving members of the family.

CHIEF JUSTICE DALY ordered the adjournment and record thereof.

In Part II, Judge Larremore presiding, Ex-JUDGE BIRDSEYE, in moving an adjournment, reviewed briefly the public life of the deceased, as a leading member of the bar in his district at an early age, as prosecuting attorney of the county of Albany, as a member of the federal councils, as judge of the Supreme Court of the state, and, lastly of its highest Appellate Court, in all of which positions he was equally eminent, as he was in private life amiable and esteemed.

MR. AARON J. VANDERPOEL seconded the motion, referring in terms equally complimentary to the career of the deceased, and was followed by SAMUEL C. CROOKS, who

especially characterized the private and professional life of the deceased as eminently worthy the imitation of the younger members of the bar.

JUDGE LARREMORE in granting the motion, referred to the circumstances which made it necessary, in the following language:

The sad intelligence that has just been officially announced has cast a shadow of gloom over the large circle in which Judge Peckham was so widely and favorably known. Honored for his judicial abilities, and gratefully remembered for his eminent social qualities, his loss will be universally felt and deplored throughout the state. It might seem presumptuous at this time to attempt to particularize the merits of the deceased. That office has been more appropriately performed by the court of which he was so distinguished a member. Our duty, though no less sad and sincere, is more simple and unpretending—to record the fact of his death, with a just tribute to his worth. Nor can we overlook the solemn warning which this event conveys. How forcibly are we reminded that death, like the law we administer, is no respecter of persons. In a moment, in the twinkling of an eye, we may be summoned to meet the last enemy of our race. May this thought unite us as a profession to diligence and preparation for the solemn moment that awaits us all. Fully appreciating and reciprocating the sentiments just uttered, I order that the court be now adjourned and a suitable entry made upon its minutes.

In Chambers, before Judge Loew, a similar adjournment was ordered on motion of MR. D. S. RIDDLE, seconded by COL. LOCKWOOD; and in the different branches of the Marine Court similar orders were entered.

COURT OF GENERAL SESSIONS.

Assistant District Attorney RUSSELL moved the adjournment of this court. He said that a few days ago the sad intelligence came to us that, among others who were lost by the unfortunate accident at sea, was a most eminent, upright and distinguished judge of this state, the Hon. Rufus W. Peckham. He had always borne the highest character for ability, integrity and vigor of character. Out of respect to his memory he moved that the court adjourn.

MR. JOHN O. MOTT seconded the motion in a brief address, alluding to his personal acquaintance with the distinguished lawyer.

RECORDER HACKETT, in granting the adjournment, spoke as follows:

The untimely death of Judge Rufus W. Peckham, of the Court of Appeals, is not only deeply lamented by all those who had the honor of his personal acquaintance, but their sorrow is shared by the great body of the people of this state, to whom the high standing and character of the lamented deceased were familiar. Few persons who have held elevated judicial positions have attained to higher eminence in the characteristics of learning, conservatism and purity of character than had Judge Peckham, who, before assuming judicial position, stood among his fellow members of the bar, their peer in all the qualifications which mark the distinguished counsellor and advocate. It is eminently proper that this court should evidence its respect to the memory of so distinguished a jurist, and as such tribute this court now stands adjourned, and the clerk is directed to enter these proceedings upon the minutes.

SUPREME COURT, CHAMBERS.

EX-JUDGE WHITE made the motion to adjourn in Supreme Court, Chambers, before Mr. Justice Brady, after the *ex parte* business had been disposed of, and EX-JUDGE VAN COTT seconded it, both uttering most feeling eulogiums upon the deceased.

JUDGE BRADY, in granting the motion, delivered a warm eulogy of the deceased, alluding especially to the heroism of his last reported words.

SUPERIOR COURT.

In Supreme Court, part I, presided over by Judge Monell, a motion to adjourn was made by EX-JUDGE FULLERTON and seconded by MR. ANTHONY R. DYETT. The speeches of both these gentlemen were characterized by the most tender emotion, as were the remarks of JUDGE MONELL in granting the motion.

In Part II, held by Judge Sedgwick, similar motion was made by MR. DYETT, and seconded by MR. BROWN. The remarks of JUDGE SEDGWICK were of a peculiarly interesting and feeling character.

In the Special Term, before Judge Freedman, the motion for adjournment was made by EX-JUDGE WHITE and seconded by E. BAINBRIDGE SMITH.

By The Rensselaer County Bar.

December 6th, 1873, at Circuit.

Upon the death of Hon. R. W. Peckham, Judge W. L. Learned, presiding,

BENJ. H. HALL arose and said:

May it please Your Honor: At the request of the members of the bar, I present to your notice the fact of the death of Judge Peckham, and I propose to offer an expression of sentiment of the court as a court, and after having so done, ask your Honor that the same be spread upon the minutes of this court if consistent with your ideas, and that out of respect to the memory of the departed Judge, that you adjourn this court until Monday morning, next. Of course I do not do this of my own motion, although I join most heartily in the ideas which I shall lay before you, but there were so many of the older members of the court who are engaged in the trial of cases before your Honor, that I was called upon by some of them last night and requested to do this in their behalf, and it is my excuse that I make this motion instead of having it made by some older member of the bar.

Rufus W. Peckham, while on his way to Europe accompanied by his wife, perished with her at sea on the occasion

of the shipwreck of the *Ville du Havre*, on the morning of November 22d, 1873. It is not proposed in this notice to consider any part of his busy life save that which appertained to his career at the bar and on the bench. In the former relation he was especially distinguished for his unswerving devotion to the cause of his client. So thoroughly would he often become convinced by examination and reflection of the correctness of his position, that it would almost seem to him that there could be no other side to the question at issue but that which he supported. This strong conviction rendered the advocacy of his causes earnest and emphatic to a degree that broke down the barriers of opposition, and swept away even fair views held in antagonism but not so ably maintained. As a Justice of the Supreme Court of this judicial district we knew him far better than we had previously known him at the bar. His uprightness was genuine and of the severest type. He held the balance of justice with no doubtful or unsteady hand. No evidence was knowingly allowed by him to be placed in either scale that did not properly belong there, and thus it happened that the observant juror came to regard the inclination of the brain to the side of right as a natural consequence, and seemed to form a correct opinion by an insensible process of reasoning. Elected to the higher position of a member of the Court of Appeals of this state, Judge Peckham wore with grace and dignity the honor thus accorded to his worth and learning. In this capacity he evinced the same clearness and precision in determining matters of difference presented to him and his associates, that he had previously evinced as a lawyer and in an inferior judicial position. Though time had silvered the locks of his noble head and impaired the elasticity of his frame, still when, a few weeks ago, he went from among us, his mental powers were in the zenith of their brilliance and emphasized his commanding presence. In view of the respect we entertain for the memory of him whose legal

and judicial careers have been so faithfully accomplished, we, the bar of the county of Rensselaer, respectfully request his Honor Justice Learned, at this time and here presiding, to direct that this memorial notice be entered on the records of this court, and to cause this court to be now adjourned.

HON. E. F. BULLARD said :

If the court please: It is proper and fitting for us to say on this occasion, in seconding this motion, that whenever a member of the court of highest jurisdiction in the state, departs this life, the bar should express their sorrow at the bereavement. I have known Judge Peckham since my early boyhood. At the first court I ever attended in Saratoga county, early in 1839, Judge Peckham prosecuted the celebrated Rector case. The prisoner had been indicted for murder in Albany, and was first tried there and convicted, but a new trial was granted, and the second trial was ordered to be had in Saratoga county. That trial took place in 1839, before Justice Willard, and was prosecuted by Mr. Peckham (as the then district attorney of Albany county), assisted by Willis Hall, then attorney general. The prisoner was defended by Ambrose L. Jordan and Henry G. Wheaton, two of the most eminent and skillful lawyers this state has ever produced. It was conceded that Mr. Peckham, although a young man, fully sustained his position, coping with those able associates and opponents. From that time forth we have known Judge Peckham. He was nominated for attorney general about 1845, before the democratic caucus of the legislature against John Van Buren, who was eventually the successful candidate. At that time the old *split* in the democratic party had just begun to manifest itself, and Mr. Van Buren was sustained by the free soilers, and succeeded by a few votes over Mr. Peckham, and Gen. Van Buren was elected, and held the office until 1848, when the new constitution

took effect. In 1852 Judge Peckham was elected to congress on the democratic ticket, and sustained Pierce's administration mainly, but in the great contest on the Missouri repeal bill in 1854, taking strong ground against his party in and out of congress. I happened in Washington in May, 1854, when he made his great speech, and I think it was conceded on all sides to be an effort of great research and ability; I know it commanded the attention of the whole house, and the many admirers of his speech flocked about him to offer their congratulations upon his power and success, although he spoke against the majority and opinions of the house.

Although a strict partisan, yet when Judge Peckham found that his party desired him to go beyond the dictates of his conscience and opinion, he had the power to assert his own independence as he did upon the occasion referred to. In 1859, as we are all aware, he was elected a judge of this court, over Judge Harris, who was a very popular judge at that time, and it was considered a very great success that Judge Peckham could be elected over so popular a man. Of course we are all acquainted with his history and career since 1859. I have spoken more of his early history, which was not so familiar to the younger members of the profession. Since 1859 his career, embracing his experience upon the Court of Appeals bench, has been well known to this bar. He occupied a position upon our Supreme Court bench until in 1870 he was elected to the Court of Appeals, and would have so continued in all probability until he reached the age of seventy years, had not this terrible catastrophe overtaken him.

His greatest and best quality as judge was his firmness of purpose and great comprehension. We all know that he was a man of strong feelings, but his firmness and courage were remarkable. If he had his mind set to do what he deemed was *right* and what he judged the case required, he never looked at the consequences or feared to take the

responsibility. His dignity and ability were conceded by all parties. Those who were best acquainted with him are not surprised to hear that during that last, awful scene in mid-ocean, when surrounded by companions and friends, he maintained his dignity, calmness and courage to the last, using that never-to-be-forgotten expression, so like unto him, "If we must go down, let us die bravely."

I second the motion.

HON. R. A. PARMENTER said:

If the court please: I had supposed that there would be some direct action proposed at a meeting of the bar by which we should pay our respects to the memory of our deceased brother, and perhaps it is just as well to discharge that mournful and solemn duty in this form of proceeding at this time as at any other.

I arise also to second the memorial presented to your Honor, and in doing so I feel that the bar of the state, as well as the bench has suffered a most terrible loss by the ocean disaster which deprived Rufus W. Peckham of his life. I became acquainted with Judge Peckham about as soon as I commenced the study of the law, and continued down to the time of his death quite well acquainted with him. In many respects I confess he charmed me. Perhaps he might be called a "rough diamond," because he sought not to polish anything he said or did, but was content with assuming his position and defending it with logic, reason and justice, and often with considerable vehemence. Seldom it was he met his equal at the bar, especially in the discussion of questions of fact before a jury. As has been intimated by Gen. Bullard, he was in his early practice thrown in opposition with some of the most brilliant lawyers of the state, and he never failed in coping with the best of them. I have often heard him sum up cases before juries in Albany, and some times in this court room, when I thought he entirely outgeneralled his opponents, although

in many respects those opponents might be esteemed his superiors; but he had a most singular faculty in addressing himself to a jury, and I do believe that he never lost a case before a jury that had merits in it. His perception was clear and quick. His mode of submitting his opinions was so clear, so common and couched in such ordinary language, that the dullest juror could not but comprehend it. Repeatedly I have seen him stand before a jury, and employing but the single gesture of one finger upon the other hand, talk upon a question of fact until every juror perfectly comprehended it, and when he finished that was the end of that case—the rest was mere formality. Many a verdict has he wrested from the most flowery and eloquent lawyers ever appearing at the Albany bar. I remember on two or three occasions particularly when he crossed swords with that great advocate Henry G. Wheaton—flowery, keen, clear headed, a Damascus blade at all times—and yet Peckham would snatch from his grasp a verdict, because he *convinced* the jury that *he* was right; they believed he was honest; his propositions were clear; they were correct; and enforced with such logic and precision that it was difficult to resist it.

Judge Peckham finally left the bar and came upon the bench, and I confess that while I admired him as a judge, I think he showed brighter at the bar than ever he did at the bench. I never shall forget the judicial convention when we sought to nominate him. In 1857 there were to be two judges; one to take the place of Judge Watson, who died. We had to nominate a judge for the long and one for the short term, and the question in the democratic convention was, who should be those judges? All wanted Peckham and Hogeboom, but those two men stood like rocks. Neither would yield one iota, each demanding the long term. While I went not as a delegate (for the late John A. Griswold was the candidate from Troy), but attended in order to aid in the nomination of Mr. Hoge-

boom for the long term, yet I desired Mr. Peckham to be associated with him rather than the other judges who were creating a deal of difficulty in other parts of the district, who were willing to take the short term, no matter how short it might be. The members of the convention fought from ten o'clock in the morning until near nightfall. Most of those participants are now dead, among them Senator Hardenburgh, Judge Hogeboom, and now Judge Peckham, as well as many others. I went first to Judge Hogeboom and then to Judge Peckham — alternating my attentions — asking them to yield one to the other and accept the short term, and thus both be nominated, as they could in a moment's time. While I regretted the result, I could not but admire the stern uprightness of those two men. Neither would yield. They advocated their claims gracefully and treated each other handsomely, but *yielding* was no part of the nature of either. The result was that Judge Peckham succeeded in securing the long term, and he was associated with, I think, an unpopular nominee from Greene county, and the final result was that Judge Hogeboom went over to the union party, and was nominated with Judge Wright, and the democratic ticket was defeated. But in 1859 Peckham was renominated, and succeeded. From that time forward he has been known as a *judge*, and it is as a judge that we must consider him. We have seldom had a man upon the bench who exhibited more sterling qualities for the position. He was no respecter of persons. He took strong sides in a cause, but his feelings grew out of the cause itself. He had no care for who were the parties. I confess I never tried a case before him when I expected to deceive him. I knew if I had a bad cause he would find it out, and the trouble was he could find it out too soon for me! Upon the bench he would be apparently idle, yet if you ever noticed him when the counsel opened his case, you could easily perceive he comprehended and understood it. And when the adver-

sary opened upon the defense he knew what that defense was, and he very soon came to the conclusion which was right, and that conclusion was soon made manifest to the jury; but it was the prejudice (if you may call it such), growing out of the case, and the facts themselves, and had no sort of relation to the parties to the controversy. A more upright judge, in my estimation, never sat upon the bench. He had a clear mind, and comprehended a legal proposition the first time it was suggested, and few men so easily grasped the strong and leading points in the case, as did Judge Peckham. I think the bar of the state will do him justice hereafter in referring to his opinions, although it must be admitted that he did not do himself justice in writing some of his opinions. He was content in announcing a correct decision without any regard to whether the language employed by him would bear criticism in a literary point of view; he would not do himself justice in that respect, but yet his judicial opinions are sound, and the bar will always remember him and honor him.

It is most fitting on this occasion that we pay him this tribute of respect. As has been said here how well we remember his commanding form, that stately walk, so perfectly natural, and I can imagine if he did stand upon that deck, just before that final issue came, how easily he might have made the remark which is attributed to him, or any other remark indicating firmness and calmness, and not so much to nerve himself or to furnish a *last word*, for I do not believe much in last words, but undoubtedly if he made that or any similar remark it was to calm those around him who stood in terror expecting the next moment to end their lives. I have no doubt that the Judge undertook to exercise by some such expression a control over the minds of those persons thus agitated. He was a noble man; honest in his purposes; determined to do right and fearless at all times. We do honor to ourselves when we respect the memory of such a judge.

JOHN B. GALE, Esq., said:

May it please the court: It is not of Judge Peckham as a jurist that I am most prompted to speak on this most sorrowful occasion, for it has been my privilege of late years to have known him as a personal friend, and to meet him oftenest in social intercourse; and it is therefore the thought of those personal qualities that characterized his domestic and social life, and endeared him to his family and friends, which fills my heart and presses for utterance.

Some of us have heard, sir, of the parting between father and son, when Judge Peckham set sail from our shores on the ill-fated steamer; and all have read how that strong hearted and loving man stood beside his trusting wife when the waves of death were about to engulf him, and forgetful of self, thought only to support her in that fearful trial.

Think you, sir, that his was a nature of only ordinary mode to which that wife then clung with a loving assurance that he would be with her in death as in life; or that burst that son's heart to manly tears when he bade that father his loving farewell? No, sir, Judge Peckham's private life revealed a heart as strong, active and fearless as his mind, and so tender and unselfish withal, and so tenacious of its attachments, that it bound him to his family and they to him as by "hooks of steel," and held to him by no common bond all who came within the circle of his friendship—a dash whose shining qualities pale the lustre of his judicial name by so much as strong and right affections of the soul outshine a clear and well poised intellect.

It is thus of the man rather than the judge that I would now think and speak, as I see him standing by his wife on that sinking deck, and with a courageous love which no danger could daunt, buoying up her spirit, as hand in hand the flood swept over them. And though I feel that it would be unbecoming this public occasion to enter into details of the personal qualities which have been thus alluded to as being the charm of the *man*, the memory which I cherish

of my lost friend, would not let me say less than I have. And saying this I would leave the Law Reports of our state to perpetuate the fame which he has won as a lawyer and a jurist — a fame which those reports will pass along the ages, when the friends who now mourn him shall have followed him through the dark waters.

FRANKLIN J. PARMENTER said :

Mr. Chairman: I did not intend to say anything on this solemn occasion, intending simply to give my silent approval of the eloquent memorial prepared by Mr. Hall, but as the various gentlemen have spoken they have called out many pleasant reminiscences of the departed Judge, and I felt that I could not remain quiet. As the gentlemen were speaking I noticed that they referred to Mr. Peckham as a lawyer and a judge, and I proposed to say a few words of Mr. Peckham as a man; I have been anticipated most pleasantly by my friend Mr. Gale, and he has left me nothing to say upon that point.

I knew Judge Peckham well; I have known him quite intimately for fifteen or twenty years. I can testify to his kindness of heart. Judge Peckham, under a somewhat cool and imperious exterior concealed (not wholly concealed though), a heart as kind and noble as you will often find in a human breast. No one appealed to that man for charity, who was deserving, but obtained the aid desired, as I have been assured. The applicant may have received a rough word before aid was given, but in the end he received his bounty. To see Judge Peckham in his glory as a judge, one should witness his charge to a jury in a case of fraud. It was my pleasure to hear one of his charges under such circumstances, and I could not help pitying the poor fellow who had committed the fraud when that long, spectral finger was pointed at him. My opinion is if that man ever committed a fraud afterwards he never came into a court-room before Judge Peckham.

MR. JUSTICE LEARNED then said :

I most fully concur in all that has been said in honor of Judge Peckham, and his character has been so carefully and thoroughly described here that I can hardly add anything. I felt, as Mr. Parmenter, who just sat down, that I would say a few words in relation to his kindness of heart, but that it has been so completely comprehended already that I can add nothing at this time. It was a point in his character, and it was not as well known to everybody as to those of us who knew him best, but I was fully aware of it myself, and succeeding him as I did I felt honored by his acquaintance, and thought I knew something of his private character. He was a man of the highest integrity and possessed the utmost contempt for everything base and fraudulent. We all knew that he had a very warm and tender heart, and I may allude to a fact which you have perhaps noticed, the devotion between himself and his son in Albany. It was an exceedingly interesting thing to see them together, both of them somewhat rough in their manners, but we all know that both possessed the deepest and warmest feeling.

The resolution that has been offered I will order entered upon the minutes, and with the approbation of the bar I will direct a copy to be sent to the relatives.

By the Greene County Bar.

At the opening of the Circuit Court and Court of Oyer and Terminer, at the Court House, in Catskill, on the evening of December 16th, 1873, the following proceedings were taken in reference to the death of the late Hon. Rufus W. Peckham :

Mr. R. H. KING, addressing the court, said :

May it please the court: We have become acquainted with the sad accident that recently occurred on the ocean, by which several hundred lives were lost, and among the number was our distinguished fellow-citizen, the Hon. Rufus W. Peckham. Judge Peckham's relations to this county and to this court were such that it seems fitting and proper that some action should be taken here to commemorate this mournful event, and to testify our respect for the deceased. So much has already been so well and truly said and published in regard to his exalted character and many virtues, that it seems out of place for me to attempt to add anything to what already fills the public mind. There are, however, some matters local in their character, with which he was connected, that it may not be inappropriate to mention. These are illustrative of his character, and indicative of the strong and marked traits of the man.

It is now over a quarter of a century since my first acquaintance with him, by being associated with him in the trial of important civil and criminal cases in this court. After Judge Watson retired from the bar and took his place on the bench, in the year 1847, the deceased, by reason of his high reputation as a lawyer and his power as an advocate, was frequently called to this county to conduct the trial of important suits, and from that date down to the time he was elected a justice of the Supreme Court, in 1859, he was so often among us in a professional capacity that he seemed to be the leading member of our bar. He was genial in his nature, courtly and dignified in his bearing, clear and brilliant in intellect, sound in judgment, and honest and sincere in all his acts and purposes; and each and all of these traits of character were so prominent that they made him an object of universal attention, and challenged the respect and admiration of every one.

When a case was presented to him, he possessed a mind that could at once grasp and develop its strong points; and when thus comprehended he would, with his great executive powers, work out the case to its proper results with a celerity that surprised his associates.

He always felt and took a deep interest in the progress and welfare of the younger members of the bar. He took delight in aiding and encouraging them in the first years of their professional career. I was often the recipient of such advice and encouragement from him, and this I shall always gratefully remember.

His fearlessness in the performance of his duty was another strong and noble feature of the man. However popular approbation sought to win him, or popular clamor to drive him, he always stood as firm and as immovable as the rock, guided only by the light in the path of duty. He scorned and held in utter contempt the man who trims his sail to every breeze, the time-serving, and the corrupt.

At the expiration of his first term as a justice of the

Supreme Court he was reelected without a competitor, and after a brief service on his second term his fame and ability had become such that the people elevated him to the Court of Appeals, the highest court in the state. Here, where the scope for the exercise of great intellect, the highest integrity and the best judgment is unlimited, he took his place, and so discharged his duties that he ranked among the best and soundest judges that ever adorned the state.

While his marked and noble life has made a deep and lasting impression on the community and the age in which he lived, his sudden, heroic and courageous death, at sea, is also deeply engraved on the minds and hearts of the people: and such a life and such a death will keep him in their lasting and grateful remembrance.

I move that this court adjourn, as a testimonial of respect to the memory of the deceased, and that its members and the members of the bar, meet with their professional brethren at Albany, to-morrow.

Mr. R. W. WATSON said :

May it please the court: In rising to second the motion of the gentleman who has just addressed the court, I have little to add to the remarks which he has made with reference to the character and public services of Judge Peckham, in respect to whose memory it is proposed that this court should adjourn, to enable the court and members of the bar to attend the meeting of the bar of the state, at Albany, in order to express the sentiment and feelings of the bar upon the sad occasion of the death of this distinguished citizen.

I have been personally acquainted with Judge Peckham, and intimately so, from the period of his school-boy days, while he was yet preparing for college, and during the whole period of his preparation for the profession which

was his choice, and since he occupied public position as a judicial officer of this state, and in his whole career, he took a decided, independent and noteworthy distinction among all his associates. This peculiarity raised him above the ordinary class of his fellow-citizens, and has distinguished him in his whole career. We have had the pleasure of seeing him here, as an advocate at the bar and a clear, discriminating counselor. We have seen him on the bench, the firm, decided, impartial judge. And in his whole life those characteristics which are invaluable in important official positions have been exhibited in a peculiar and extraordinary degree. And with regard to his integrity as a judicial officer there has never been a whisper, an intimation, from any source that it was to be called in question ; and amid the lamentable corruption of the times, extending even to our judiciary in some instances, these qualities are worthy of all admiration, and are inestimable in a judicial position.

It is becoming, it is of wholesome influence, that upon the decease of so distinguished a personage there should be an expression of approval and appreciation of his public services, as an incentive and as a reward to those who will follow in the footsteps of so glorious an example, and to have it understood that those qualities are duly appreciated, and that there is morality and principle left in the community at large to appreciate those virtues.

As I said when I arose, I did not expect to say much in addition to what had proceeded from Mr. King, on the subject of the character of Judge Peckham. I highly approve of the course suggested, and it seems to harmonize with the feelings of this bar that the court should adjourn out of respect to the memory of Judge Peckham, that the court and members of the bar may attend the meeting of the bar of the state, at Albany, in pursuance of the invitation that has been extended to us.

Mr. J. A. GRISWOLD said :

May it please the court : Though desiring to join in the motion which has been made, I feel wholly unable to give expression in appropriate words either to my own feelings or to what is proper and fit on this occasion. I have known Judge Peckham for some twenty-five or thirty years. He being a relative and intimate friend of the late Judge Watson, with whom I was a student, and also with my partner, Mr. Rufus W. Watson, and having on several occasions, before his elevation to the bench, had him associated with me in the trial of causes, I had the opportunity of knowing his kind and genial nature and social qualities. As a lawyer he stood in the front rank of his profession : and later, as a judge of the Supreme Court and of the Court of Appeals, he had an enviable reputation throughout the state.

Judge Peckham had some marked characteristics. In addition to the clearest, most grasping and comprehensive mind he possessed another qualification, in my opinion among the first requisites of a judicial officer — a moral courage that was immovable, that knew no fear. In this respect he more nearly approached one of the most marked characters, and one of the most eminent men, of this or any other country, than perhaps any other whom we know ; nay, in this I believe he was the peer of Andrew Jackson. And when I commenced to read the account of that terrible disaster, the loss of the Ville du Havre, with nearly four hundred people on board, as I glanced along down the columns of one of the daily papers and my eye caught the words, in quotation marks and large type, “If we must go down, let us go down bravely,” without reading, without hearing who it was that uttered them, I thought, I felt instinctively, that those were the words of Judge Peckham. The words were characteristic of the man on the occasion, and I thought, with a little stretch of imagination, I could in part bring within my vision that terrible scene.

That immense steamer is on her way in mid-ocean. It is near the hour of midnight. All on board are in the deepest slumber, when the great vessel is suddenly struck by the prow of another under full headway, crashing nearly one-third of the way through, breaking and slivering planks, timbers and bulwarks, letting the sea like a river into her hull. A moment more all her passengers are on deck—men, women and children, frantic with peril; and standing there amidst all this confusion and terror I saw Judge Peckham, his long white hair streaming in the wind, his wife at his side, calming and soothing all, and uttering those memorable words, that will be historic, “If we must go down, let us go down bravely.” These are the words of a brave man. They are the words of a hero.

It was not long ago that I partook at his house of his kind hospitality, and that of his most estimable wife, who so bravely perished at his side.

I was deeply shocked at the sad event.

But, sir, however much we may deplore his loss to the judiciary, to the state, and to ourselves—however deeply we may sympathize with his kindred and friends, I can not but feel that he who has passed through life so thick with honors, who has left a private character untarnished, the judicial ermine unsullied—I can not but feel that “his years are full.”

May we so live and perform our duties through this fleeting and feverish existence, that when death shall come, as come it must, we may meet it so bravely.

I join in the motion which has been made.

Mr. J. B. OLNEY said :

May it please the court: The tidings of the mournful event which the action of this court is invoked to commemorate have long since been heralded to every hamlet of our country, and the generous hearts of even distant lands

have mingled their regrets with our own, that a wise and distinguished jurist, an able and upright judge, has been by a terrible disaster stricken from the number of earth's children.

Death is ever an instructive monitor as well as mournful messenger; but when his relentless shaft has taken from us the great in intellect and renown, how doubly impressive is the lesson it brings home to the heart, that the grave is the common lot of all — the great leveller of all earthly distinctions.

We all knew Judge Peckham as a man, a lawyer, jurist, judge, and had learned to admire that intellectual vigor which so markedly characterized his life, and that warmth of social feeling which made him the idol of family and friends.

He was one of the most remarkable men of the age. I care not where you go, nor in what direction you turn, no locality, no country, no epoch I may say, can show a character more replete with all that is noble, grand and heroic in life. These elements were stamped upon every act and thought, in every position he was called to fill. Whether at the bar, or at his post as district attorney, as representative in congress, or holding in his hand upon the bench the golden scales of justice, his independence, boldness and originality of thought gave him a merited preeminence.

Follow him from the walks of humble life; watch him as he mounts from obscurity, step by step, until he shines forth resplendent, the brightest jewel in the imperial diadem which crowns the head of our judicial system — and where, I ask, can you find a more glorious career?

But he has gone! The places that have known him shall know him no more, and the vacant chair in our Court of Appeals is a silent but eloquent witness of the loss the bar, the bench and the state have sustained in his sudden death.

As the snow on the mountain,
As the foam on the river,
As the bubble on the fountain,
He has gone, and forever.

He died as he had lived. Firm in the consciousness of duty well and nobly done, fearless and courageous, he entered the dark portals that separate the living from the dead. The lofty faith that possessed his soul as the raging waters swept him away from all that is terrestrial, assures me that the garlands of immortality in Heaven's high court shall forever deck his noble brow.

This thought is a consolation in this hour of our sorrow; for the memory of his virtues and his bright example will live through all coming time, and bloom eternally beyond the grave.

“Alas! for him who never sees
The stars shine through his cypress trees!
Who hopeless lays his dead away,
Nor looks to see the breaking day
Across the mournful marbles play!
Who has not learned in hours of faith
That truth to flesh and sense unknown —
That life is ever lord of death,
And love can never lose its own.”

Mr. J. HALLOCK said :

May it please the court: I came here this evening as a listener, and to pay a silent tribute to the memory of the great judge whose tragic death has thrown a shade of sadness over all our hearts.

I heartily unite in all that has been said of the merits of Judge Peckham. He was a man of noble mould — of noble mind. He passed a life of usefulness in our midst —

a life of labor — of conflict and success in his profession; and as a judge he stood calm and impartial amid the conflicts and tempests of human passion. We may find in the record of his judicial life one of the noblest examples which a member of our profession can leave to his brethren.

He has gone down in the midst of the ocean. It was fit and proper, if it were appointed the noble man then to die, to leave the world as he did. In the immediate presence of death he sustained and comforted those about him and gave utterance to those words so thoroughly characteristic of the man, which will live as long as our language is spoken — “If we must go down, let us go bravely.”

At the conclusion of the foregoing remarks, the presiding judge, Hon. P. S. DANFORTH, said :

The intelligence of the death of Judge Peckham startled and saddened all who knew him personally or by reputation. Reluctantly seeking restoring rest for a time from his exhausting labor, he began a journey abroad, but by the wreck of the steamship in which he had taken passage went down to his grave at sea.

Early in life Rufus W. Peckham achieved a place among the foremost of his profession, at the time when such men as Samuel Stevens, Marcus T. Reynolds, Daniel Cady and John Van Buren were in the zenith of their renown. Though comparatively young, he was regarded as a lawyer of great ability. As district attorney of his native county, Albany, he discharged the duties of that responsible position with great satisfaction to the people. As a member of congress he represented the interests of his constituents with marked success. For the last twelve years he has made a name for himself as justice of the Supreme Court and associate judge of the Court of Appeals.

When a student at law in the year 1839, at Albany, I made the acquaintance of Judge Peckham. From that

time onward I have known him well. His ability, his learning, his integrity, his firmness and independence in maintaining his convictions, are known to all, and won for him the confidence and respect of the bar, the bench, and the people. His death is a great loss to the judiciary of the state, and on those who knew him intimately it falls with the force of an affliction.

Monroe Circuit.

ROCHESTER, *December 15, 1873.*

Present, HON. CHARLES C. DWIGHT, Justice.

In the Circuit Court, held at Rochester December 15th, 1873, Judge Dwight presiding, and Judge E. Darwin Smith also on the bench, J. D. HUSBANDS, Esq., arose and addressed the court as follows:

If the court please: The atmosphere of late has been rife with stories of accident and death, and among them some of the most distinguished men of our profession have passed away suddenly. I come not here to speak this afternoon of the judicial learning of either Judge Nelson or Judge Peckham, because their monuments have already been erected, and in the library on my left are some fourteen thousand volumes, in many of which they have left the results of their vast learning, their wisdom and their judgment for the benefit of mankind. The brethren of the bar all over the state understand that quite as well and better than I do, and, on the day after to-morrow, a public meeting is to be held in the city of Albany, to do honor to the memory of Judge Peckham, and no doubt it will include that of honor to Judge Nelson, who has so lately joined his illustrious friend in death. I knew them both

when I was a boy. We were Otsego inhabitants together. In 1836 you will find Judge Nelson was appointed chief justice in the place of John Savage, resigned. Then G. C. Bronson took the place of Judge Sutherland. Judge Asa Cowan was promoted from the circuit bench to that of the Supreme Court, and Samuel Beardsley became attorney general in the place of Judge Bronson. On February 13th, 1815, Judge Nelson was transferred to the bench of the Supreme Court of the United States. I remember very well that when Judge Nelson was made chief justice of this state he was talked of with virulence by the press of the party opposed to him, and night after night he spent in his office in Cooperstown, where he studied his cases, and from that hour he became the judge which he afterwards developed himself to be. He married a daughter of Dr. Russell of Cooperstown. In social life he was all that wife, children or friends could ask.

Judge Peckham and myself were boys together. We went to school together in Cooperstown, and were in college together. He was a positive boy as he was always a positive man, stalwart in frame, of fine intellect as a boy, he developed the qualities which he has since exhibited in his professional life. No obstacle ever interfered with his plans. In social life he made his mark in his boyhood, just as he made his judicial mark in his manhood, and as he said in that last hour of extreme peril, he met everything boldly and bravely: and to know Rufus Peckham, was to know a brave man whose heart was as kind as a child's, and whose affections were as warm as a maiden's. He never could descend to a mean act. He never could do that which would cause a tinge of blush upon any face.

In those days there was a charmed circle in Cooperstown life. There was Judge Nelson, Fenimore Cooper, Judge Morehouse, Robert Campbell the uncle of Judge William Campbell, my old venerable teacher—all men who had made their mark. Among these Rufus Peckham began

to grow in high esteem. They were looking forward to his future, and he made it. He came upon the bench and he became a man of mark and distinction. I cannot describe his career, and I would not. I simply stand here to offer the tribute of my heart to those early virtues which were subsequently developed, and which afterwards found their destruction in an ocean grave—no I make a mistake when I say their destruction. For these qualities still live. They live to teach young men right principles of action, they teach the bar, they are in our books, they are in our thoughts, they come up to us constantly. Although dead, he speaks to all this generation. I think I can say no young man started in life who needed the aids of professional learning more than Rufus Peckham. He had nothing to start him in life. And yet from that early beginning, with nothing but his own energies and his industry, he became one of the foremost men in this state, and learned lawyers, learned judges, all men consider it an honor to do him reverence. And when on that fearful night he stood upon the vessel's deck with the billowy sea rolling about him, all death and no hope this side of the grave, and said "If we must go down, let us go down bravely," Rufus Peckham spoke just as the boy had trained himself to speak, and as such I think of him. No formal action has been contemplated on this occasion; but we all love the memory of Judge Nelson and Judge Peckham, and I therefore move that this court adjourn as an appropriate tribute of respect to the distinguished dead.

JUDGE MUNGER followed in brief remarks. He said :

I rise to second the suggestion of my learned brother. It strikes me as very appropriate under the circumstances. We all can recall the thrill that went through our hearts a few days ago when we heard of the terrible disaster at sea, and that among the distinguished and eminent dead,

was Judge Peckham of the Court of Appeals of this state. I myself did not enjoy the privilege of my brother of a personal acquaintance, or what might be called a personal acquaintance, with either of the illustrious dead. But still there is something upon this occasion which stirs our professional feelings and professional pride and our professional sorrow into activity. Judge Nelson's life was a long professional one, full of professional successes and professional honors. He started at the lowest round of professional life, and by a steady march, traversed the professional ladder, so to speak, until he reached, at least in reputation, its highest round. We all knew him as the honored chief-justice of this state, and for many years associate justice of the Supreme Court of the United States; and although his position technically on that bench was below that of some others, yet, in point of influence, in solid reputation, it was perhaps not inferior to that of any associate justice who sat on the bench of that court during that time.

There is something so terrible connected with the death of Judge Peckham, that must stir our feelings to their very depths. Although perhaps I have not had much more experience in ocean travel than most of those present, yet I have had enough to realize the horrors of that wintry night when the ship went down into the depths of the sea, leaving but few to tell the story of her misfortune. And as has well been remarked, it is a satisfaction to hear, among the few incidents that have come to us from that terrible disaster, that Judge Peckham conducted himself with such a degree of personal bravery. If there can be any solace in such a misfortune, we have that solace in the loss we have sustained. Yet there is a difference between the departure of these two distinguished men. Judge Nelson has left us after a life crowded with professional successes and honor. He died at home, quietly in the bosom of his family, and has left the legacy of his profession to those who remain behind him. The other seeking a season, not of relaxation, but of

cession from his daily judicial toil to regain his wasted energies, has gone down to a watery grave, in the midst of a life of usefulness, leaving those sad memories behind him of the nature in which he met his last end. The feelings with which his loss has been met, the sympathy which it has excited, has testified itself, so far as my recollection and knowledge extend, in the almost unprecedented event of a meeting of the bar of the entire state, to be held at Albany. It therefore seems to me very proper that this court should take some action, to be transmitted to that meeting with a request that our proceedings here be deemed a part of the proceedings of that meeting.

SETH H. TERRY then arose and spoke briefly as follows:

It was my privilege also, to have personal acquaintance both with Judge Nelson and Judge Peckham at an early period of my life. Judge Nelson had a son who was a classmate of mine in college, and that fact brought the Judge often to Schenectady; and I shall never forget, as I never have forgotten, the pleasure which several of us derived in spending an occasional evening with him in that city. Judge Nelson was a man of remarkable physical appearance, of robust frame, singularly pleasant face, a small, round eye, which perpetually twinkled with the evidences of intelligence, in fact all the features of his face were lighted up with an unusual illumination of what might be called genius. I think I do not say too much when I declare that of all the judges who occupied the bench at that time, there was no one more distinguished for knowledge of the law than he. In his intercourse with the profession he was always pleasant, and he delivered his opinions in such a clear and comprehensive way that there was no mistaking what he meant. The conciseness of the language he used, to clothe his ideas, seemed to flow from his legal mind in such a way as to satisfy all, that while he

was a profound jurist, he was likewise a distinguished *belle lettre* scholar: and I think that the law of this state is indebted for the present high position which it occupies among the lawyers of this state, as well as among the lawyers of our sister states, very largely to the clear decisions rendered by the Supreme Court when Judge Nelson was on the bench.

In regard to Judge Peckham it was my privilege to know him also at about the time to which I have just referred and subsequently. He was at that time district attorney of Albany county. I recollect I was present at a trial prosecuted by him about the year 1837. It was the celebrated case of Thomas Rector, who had been indicted for murder. He had been tried and convicted of that crime. The case was carried to the Supreme Court and a new trial obtained, and the place of trial was changed to Saratoga county. It was one of the most remarkable trials that I ever listened to. Mr. Peckham was associate counsel for the people, but it was difficult to keep him back from taking the leading part. He was always quick and on the alert, and stood first among the distinguished men who engaged in the trial.

I agree with my brethren who have preceded me, this is a fitting occasion to offer a tribute of respect to the memory of these distinguished men. I therefore move that the bar of this county here assembled concur in full in the resolutions adopted at the meeting of the bar of Albany county on the death of Judge Peckham, and concur in whatever resolutions of respect and condolence shall be adopted at the meeting of the bar of the state, appointed to be held in Albany on Wednesday next.

JUDGE DWIGHT said :

It is eminently appropriate that upon this occasion, when the two deaths referred to in the remarks of the gentlemen,

have followed each other in such quick succession, that these events should be taken cognizance of by this court. One of these eminent judges was more than forty years ago judge of the Circuit Court of this state, and from that time till about two years since, his career has been one constantly advancing in judicial honor and distinction. The other was for one term and part of another, a judge of this court, and at the time of his most tragic death, was a member of the highest court of our state. The proposition made by the gentlemen who have addressed the court is highly proper, and these resolutions the bar of Monroe county will be understood as adopting, and will be entered upon the minutes with the full concurrence of the court here sitting, and of E. Darwin Smith who sits with me on this occasion.

JUDGE MUNGER said:

I would suggest that the clerk of the court be directed to transmit a copy of these proceedings to the committee of the bar at Albany.

JUDGE DWIGHT: That will be considered as part of the resolutions.

The court then adjourned.

To the Secretary of the meeting of the bar of the state to be held at Albany, December 17, 1873.

R. D. JONES,
Deputy Clerk.

In the Superior Court of Buffalo.

At a General Term of the Superior Court of Buffalo, held at the rooms of the law library in the city of Buffalo, on the 8th day of December, 1873: present, Hon. George W. Clinton, chief judge; Hon. James Sheldon, and Hon. James M. Smith, judges.

MR. M. A. WHITNEY spoke as follows:

May it please the court: I arise to call you Honors' attention to a subject which it seems to me should receive respectful and solemn consideration from every judicial tribunal in the state. By a recent appalling disaster which befel the steamer *Ville du Havre* in mid-ocean, freighted with human beings, our profession, our state, our country is called to deplore the loss of one who has adorned the pages of its history, and who, at the time of his death was a distinguished member of our court of last resort. I allude to the late Hon. Rufus W. Peckham.

Of the circumstances of his untimely death we have all been made familiar, and I doubt not that by all who knew him, either personally or by reputation, each heart has already yielded up its silent tribute of sorrow and regret. The several responsible positions which he from time to time so acceptably and so honorably filled in the legislative

and judicial branches of our national and state governments, his eminence at the time of his death, the method by which he attained it, and his example as a high-minded, useful, intelligent, Christian man, are considerations not to be overlooked, but worthy of inscription everywhere.

I therefore move that out of respect to the memory of the late Judge Rufus W. Peckham, this court do now adjourn, and that a suitable entry be made in the minutes.

MR. JOHN NORRIS, in seconding the motion to adjourn, alluded to the heroism of the late Judge as strikingly illustrated in the manner in which he met his sad fate.

CLINTON, Chief Judge, remarked :

During a portion of my life I knew Judge Peckham intimately, and he was well known personally by my brothers. We sympathize most deeply in the sorrow of the bar. Judge Peckham was amiable, exemplary in private life, and his services to the public were distinguished by purity and ability. This death is a sad loss to the judiciary. It will be far from easy to place in the eminent position he has vacated, a successor of equal fitness, power and integrity.

The motion is granted.

The court then adjourned.

A true copy of the minutes.

A. A. BLANCHARD,
Clerk.

Resolutions.

At a meeting of the Common Council of the city of Albany, held at the City Hall in the city of Albany, on the first day of December, 1873, the following preamble and resolutions were unanimously adopted.

WHEREAS, The mournful intelligence has been this day received, that, by a collision at sea, our fellow townsman, Rufus W. Peckham, and his beloved wife have been suddenly ushered into eternity; therefore,

Resolved, That in the death of Rufus W. Peckham, this city has sustained a severe loss, the judiciary of this state been deprived of an honored judge, and the legal profession of one of its oldest and most talented members.

Resolved, That this board tender to the family of the deceased their deepest sympathy in this sudden and unexpected affliction.

Resolved, That the clerk of this board be directed to transmit a copy of the above preamble and resolutions to the family of the deceased, duly attested by the president.

JOHN G. BURCH,

President.

HALE KINGSLEY,

Clerk of Common Council.

National Savings Bank of Albany,
ALBANY, Dec. 20th, 1873.

At a meeting of the Trustees of this Bank, held on the 2d inst., the following preamble and resolutions, offered by Mr. Isaac Edwards, were unanimously adopted.

Deeply affected by the sudden and terrible loss of the steamer Ville du Havre, in the open sea on the 25d day of November, with so many precious lives, we have a peculiar and special sorrow for the loss of our esteemed associate, Judge Peckham.

Hardly able to realize the awful fact, one can scarcely dwell upon his sterling worth and honorable service. Known to all our people by so many acts of courtesy, and honored through the state for his judicial ability, we find it difficult to imagine for him a death so swift, in the silence and darkness of the night, on a trip from which we hoped to see him return with restored health and vigor; therefore,

Resolved, That though in contemplation of absence abroad he had just before his departure sent in his resignation as a trustee of this institution, our separation from him has been so recent and our sense of loss is so sincere, that we cannot forbear expression and record of it on this sad occasion.

Resolved, That our sympathies in their bereavement be tendered to the surviving members of his family, and entered at length on the minutes of this board.

J. H. VAN ANTWERP,
President.

A. P. STEVENS,
Secretary.

Memorial Services

AT

ST. PETER'S CHURCH, DEC. 14, 1873.

IN MEMORIAM.

Memorial services in honor of the late Judge Rufus W. Peckham, and Mary E. Peckham his wife, were held in St. Peter's church, on the afternoon of December 14th, 1873, at three o'clock. The following clergymen were present and took part in the exercises :

Rt. Rev. William Croswell Doane, bishop of the diocese,
Rev. William A. Snively,
“ Thaddeus A. Snively,
“ J. Livingston Reese,
“ Edward Selkirk,
“ Royal Marshall.

The attendance was very large, the vast edifice being crowded to its utmost capacity. Almost all the members of the bar of this vicinity were in attendance, the judges of the Court of Appeals attended in a body, wearing mourning badges on their left arms. The immediate relatives of the deceased occupied pews which were reserved for them near the altar. The music, both vocal and instrumental, was most appropriately and effectively rendered. The service opened with an organ voluntary, after which followed the usual ceremonies observed at the burial of the dead.

Then followed a sermon by the Rector, Rev. William A. Snively, which we give below.

The services lasted about an hour, and were of the most solemn and impressive character. The audience was deeply affected, many being unable to restrain their emotion. The benediction was pronounced by Right Rev. Bishop Doane.

SERMON.

Under ordinary circumstances the solemn words of the church's burial service are the appropriate consolation of the living and the fitting tribute of respect to the dead. But the peculiar occasion which has assembled us in God's house to-day justifies and even requires an additional word of special reference to the great sorrow which has so suddenly come upon us all. The solemnity in which we are engaged is an unusual one. Its object is to recognize, in the only possible method left us, our own particular share in the great calamity which has so recently thrilled the hearts and awakened the sympathies of two continents; and whose tidings have sent desolation and sorrow into many homes. And it connects, so far as is possible now, the service of the sanctuary and the consolations of the church, with the event of that terrible hour, when two honored and respected members of this parish passed from our sight forever. And therefore, in this sacred spot where they worshipped while living, and before this holy altar whither we fain would have borne their remains when dead, we meet to dwell with loving remembrance upon the grandeur and the beauty, the strength and the loveliness of their character, and to seek the consolation and help which may enable us, even in our tears, to say, "Thy will be done."

Concerning the distinguished man whose name has so suddenly been rendered sacred by death, I only echo the universal sentiment when I say that his loss is a public calamity. No words of eulogy are needed here to-day, since

the manifold expression of unaffected sorrow, of deepest sympathy and of true appreciation of his worth come to us from every part of the state of which he was so eminent a citizen. Other and fitter words than mine have spoken his eulogy in the high judicial position he adorned, and the conspicuous elements of his character, his inflexible integrity of purpose, his unbiased clearness of judgment, his unsullied purity and his lofty sense of personal honor have been rehearsed and recorded in the numerous but always harmonious estimates of his character, in which men of every shade of political opinion have expressed their sense of his loss. Learned courts have paused in their proceedings to pay their tribute to his worth: corporations to which he belonged have recorded upon their minutes his truthful but unexaggerated epitaph; a stricken community, shocked by the sudden intelligence of his death, has paused to speak his name with reverent affection: while the learned profession of which he was an honored member have set apart a fitting hour and place in which to lay the wreath of their appreciative remembrance upon the shrine of his memory.

These facts are at once the tokens and the testimonies of his real nobleness and worth. For more than one-third of a century he has occupied conspicuous positions of responsibility and trust. As custodian of the public safety in the effective execution of the laws, and as a legislator in the halls of congress, he had naturally to come in contact with the competitions and conflicts of antagonistic opinions and parties: and yet amid them all he was so infinitely removed from the littleness of intense partizanship; so far above the unworthiness of a self-seeking ambition; so calm in the conscious rectitude of his purpose, and the utter impossibility of an unworthy motive; that, to-day, the tributes to his memory are as varied in their sources, as they are identical in their estimate of his worth. His long career of professional success culminated in the high position he occupied during the closing years of his life, and in it, in his

own sphere, he fully maintained the dignity, the learning and the purity of the highest court in the state. His eminent associates have already borne their testimony to his excellence; and it is a most touching fact that when his judicial labors there proved too severe for his failing strength, their own fraternal interest in the preservation of so precious a life, not only urged compliance with the prescription of a brief respite in foreign travel; but even rendered that compliance possible to his sense of duty by assuming his work in his absence, and dividing it among themselves.

Within the narrower sphere of his personal acquaintance, and especially amid the sanctities of his home, there were added beauties of a genuine manhood that made up a character which to know at all was to respect, and to know intimately was to love. For beneath the courtly dignity of his manner, and the almost anstere aspect of his outward bearing, there was a heart of almost feminine tenderness; a truly reverent spirit; and an amiability and a patience which no contradiction could exhaust. His integrity was not an official assumption, it was a personal fact. The rectitude of his judicial character expressed itself in the daily relations of life; in the amenities of social intercourse, and in the intimacies and refinements of his own generous hospitality. Even in the freedom of recreation from professional toil, there was no lowering of his personal dignity and his courtly bearing; and in the sacredness of his home and the intimate relations of personal friendship, that dignity was sweetened by a tenderness, a simplicity and an affection, which in such a combination are as beautiful as they are rare. And the closing hour of his earthly life blended both of these characteristics, as with the same breath he cheered and sustained the hearts around him that were paralyzed by fear and spoke his last recorded words which show that even in that supreme moment, he was his own grand and heroic self.

Nor must we in this hour of commemoration forget the gentle presence of one whose highest ambition was to be ever at his side ; whose life was devoted to tender ministries to his comfort ; and whose taste and culture brightened and beautified his home. Unassuming and simple in her life ; thoroughly feminine and wifely in her domestic relationships ; with a love of the beautiful both in art and nature which amounted to a ruling passion ; and a Christian faith which even the timidity of her own self-distrust could not deter from the highest privilege of the Christian church — her life and character were the appropriate complement of those of the eminent man whose name she bore in life and whose sudden fate she shared in death.

We can not interpret the mystery of that inscrutable providence, which in the brief warning of twelve minutes, cast its fatal shadow over the hopes of restoration to health ; disappointed the expectation of recovery which rest in a milder climate might bring ; and which amid the terrors of shipwreck, the cold silence of a winter night, and the awful majesty of the sea, brought their united life, in the full bloom of its maturity, to so sudden and appalling a close.

We can only remember that to every noble life brought to an untimely end, there was a possible future, whose exigencies and whose issues we cannot calculate. There is an omniscient love which can see them as we cannot, and which, in the complex mystery of life, may even, by the sudden wrench of an overwhelming disaster, forefend His children from the evil that was to come. And while to bleeding hearts crushed and overwhelmed by this sorrow, and to the keenness of a grief too sacred for public utterance to invade, there is but poor consolation in the thought of what might have been, we can at least turn to what is left us, in the fact that a noble life brought to its termination, and sealed with the signet of death, is a completed thing ; that beyond the possibility of failure, it becomes thenceforth an enshrined ideal of excellence to all who

knew it, and that its very memory is a precious heritage and a living inspiration forever.

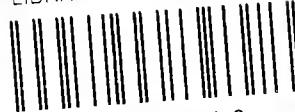
Aside from the overwhelming sorrow which we must now compose ourselves to bear, the deepest incidental regret we feel this hour, is that the loving ministry of those who are left finds no opportunity for its exercise. There are hearts which weep with tears which cannot be restrained; and there are willing hands that would gladly lay the floral cross upon the coffin and tend with grateful care the sacred spot that might enshrine their dust. But even these ministries are impossible; and there is left us for our remembrance of their final hour, but his closing words of dignified courage in the presence of disaster and death, words that have been rescued for our consolation from the ocean's depths. There is left us but the picture which imagination instinctively paints, of that manly form standing in calm grandeur and native heroism in the presence of inevitable death, and a brave and loving wife clinging to his side to share it with him; and there is left us the probability, which is only not a certainty because not recorded, that in that supreme moment, amid the calmness and the heroism which could only spring from trust in God, prayer itself was an intuition, as from the deck of that ill-fated vessel, and from the yawning depths into which she sank, there arose a *de profundis* from many hearts, whose intensity and earnestness we can never know, but whose agonizing cry entered into the ears of the Lord of Sabbaoth. We may not lay them tenderly to rest in the cemetery, where our departed sleep; but the ocean's depth is their sepulchre; the stars of heaven are their sleepless watchers; the waters are their winding sheet; and the ceaseless sighing of the winds and waves their requiem. They were

“Lovely and pleasant in their lives,
And in their death, they were not divided.”

102878

BOUNDED BY

LIBRARY OF CONGRESS



0 014 112 780 9